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THE DUMDUM BULLET

## Vietnamization on Main Street

ROBERT WELLS

## HITCHES IN THE CABLE

***Television in New York . . . Sidney W. Dean, Jr.***

**Thomas I. Emerson on Justice**

**Fat and Skinny Poems / Robert J. Griffin**

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# LETTERS

## on air piracy

*Washington, D.C.*

DEAR SIRS: Thank you for . . . your June 22nd editorial on air piracy and hijacking. We are happy to see serious attention being given to this awful problem in every possible medium. However, the tone of your piece suggests that suicidal passengers are a new phenomenon. They are not. They have been a factor in the whole distressing situation since aerial crimes began, and there have been several instances where an airliner has gone down with total fatalities as a result of a passenger intent on self-destruction.

As in the case of other crimes, prevention is indeed the best solution, and your suggestion that passengers be "frisked" is part of it. Airport security, psychological profiles, screening devices and special procedures also enter into it, and these are all being developed in depth at the ICAO meeting . . . in Montreal, with ALPA participation.

Simplistic answers to complex problems do not work. One single thing or another will not stop airborne crime; it will take a broad, coordinated program wholeheartedly supported by all the aviation powers to sweep piracy from the skies, just as the major nations had to band together a few centuries ago to end piracy on the seas.

*Air Line Pilots Association*
*Frank Martineau, Editor,* Air Line Pilot

## help for war objectors

*Vancouver, B.C.*

DEAR SIRS: Each week twenty-five to forty young American war resisters arrive in Vancouver, B.C., tired, frightened and unsure of their legal status. Some sympathetic Canadians have been helping these boys by providing welcome, homes and jobs so that they can become legally landed immigrants. But now that more and more are arriving every day, the task is growing beyond us, especially here in the West.

In Vancouver we have a small center, the Committee to Aid War Objectors. . . . But the work is now too much for the small staff. They need a better office, a secretary and at least two additional counselors. The Co-ordinating Council . . . was formed last January to try to bring local resources together. Our work is entirely voluntary and we try to help the committee by writing letters, finding jobs, housing, etc. But what is needed most is money —to finance the needs mentioned above, buy tickets to jobs in the North or on the Prairies, set up a hostel for transients and for boys who are not yet ready to face a new life in a strange country.

And so we ask Americans, whose sons we are trying to aid, to give us the money we so urgently need. If you can help, please send a check marked "refugees" (on a regular monthly basis if possible) payable to the Vancouver Co-Ordinating Council for American War Refugees, and mail to Father James Roberts, St. Joseph's, 140 Moody St., Port Moody, B.C. Give us the money, and we will care for your boys. *Dorothy Drexel, Secretary*

## correction

Desmond Stewart writes us that the original version of his review of Miles Copeland's *The Game of Nations*—June 22, 1970—did not imply that the CIA coup against Mossadegh took place in the Arab world; the implication that it did was a slip in editing. . . . And from Miles Copeland comes a letter assuring us that he was not "for some years the junior member of a CIA team attached to the U.S. Embassy in Cairo" but was "the senior member of a team of management consultants hired by AID." *Editors.*

# EDITORIALS

## The Freedoms Act

Four members of the Congress, Sens. Philip A. Hart (D., Mich.) and Roman L. Hruska (R., Neb.), and Reps. William M. McCulloch (R., Ohio) and Hale Boggs (D., La.), all of whom served as members of the National Commission on the Causes and Prevention of Violence, have joined in introducing a measure (H.R. 18080), known as the First Amendment Freedoms Act, which was included as one of the recommendations of the commission. The measure should receive the most careful and thoroughgoing scrutiny, for it presents certain unapparent dangers.

The bill would make it unlawful to interfere by the use of force or "disruptive noises" with the orderly conduct of any "meeting, address, discussion, worship, or other assembly," or with the exercise of any person or group's constitutional rights of religion, speech, press, assembly or petition, by means of demonstration, picketing, publication, or other means. It would also make it unlawful to withhold or limit, under color of state or federal law, any permit, license, or other permission for a public meeting. Any group or individual, claiming to have been injured by any such action, could bring a civil suit for appropriate relief in the federal courts. In such an action the court could grant injunctive relief and also award damages. The Attorney General could intervene in any such action if he certified that the case was one of general public importance.

No doubt the sponsors believe the measure is not only needed but that it would help secure First Amendment freedoms. But injunctions in free-speech cases can be troublesome for the same reasons that injunctions can present problems in labor disputes. Injunctions can be much too restrictive, and violations are not easy to determine. At what point would normal heckling, shouting, and the like constitute "disruptive noise"? Most disruptions of meetings by force can be dealt with under existing state and local laws. Moreover, the burden of proof in a criminal action rests on the prosecution, but no such burden exists in criminal contempt prosecutions. Federal law already prohibits interference with constitutional rights under color of state law or action. Permits for meetings cannot be arbitrarily withheld; actions can be brought to force the issuance of such permits. Also, the power conferred on the Attorney General to intervene in such cases or to initiate them raises some very serious doubts as to the measure's wisdom. Ramsey Clark was one kind of Attorney General, John Mitchell is quite another type, and the measure should be assessed in terms of how a Mitchell might use it. [See review by Thomas I. Emerson, p. 55.]

Announcement of hearings on H.R. 18080 should be made well in advance to insure the fullest presentation of arguments for and against it. The opinions of constitutional experts should be solicited. The civil liberties constituency is not nearly as large or as well organized and financed as it should be. Since it seems to be in furtherance of civil liberties, this measure could fail to receive the close study it most certainly deserves. We shall have more to say about it at a later date.



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## Sukarno

Sukarno is dead. How hard it is to assess this man's life without vitriol or cliché. Most men who knew him well in Indonesian politics will be bittersweet or silent. His more petty detractors, especially abroad, will continue simple-mindedly to curse him as a crypto-Communist and worse. But he won't be ignored by history, and this thought may have been some comfort to him as he awaited physical death some four years after he died politically—the death that really mattered to him.

It is as easy to romanticize Sukarno as to condemn him. He was not in fact socially radical or even consistently progressive, and he was too much the Javanese aristocrat to feel deeply the misery of the peasantry, for so many of whom in Java he was a glorious prince. He was not a dictator either—he did not have the power to be one. Like Sihanouk and Nkrumah, he never developed enough organizational power either to rule effectively or to keep his opposition under control. For a time he helped take Indonesia on a roller coaster ride, and if this made for economic decline, it also lent Indonesians a breathless sense of national existence and (perhaps illusory) control over their own fate. This man was no slavish imitator of anyone.

Also like Sihanouk and Nkrumah, Sukarno had a fairly precise vision of the world and the miserable place of new states in it. Probably the international adventure did have internal political uses. But he was infuriated by the arrogance of the great powers, and he was outraged by the limited ability of his own country to escape their grip. His successors no longer ignore the problems he angrily talked about as neo-colonialism and imperialism.

Perhaps the age of angry nationalist leaders is over; if so, the chance for a new age of development may be lost. There may be merely accommodation to the economic power of the world giants. Whatever else one may say about Sukarno, he refused to submit willingly to the indignities imposed on the Third World by the dominating powers.

## Ne Plus Ulster?

A Tory government in Britain is what the Catholics of Northern Ireland feared most. Weak at times though the Labour ministers may have been in their dealings with the Ulster Unionists, they were at least fully committed to reform and civil rights, and might have applied the thumbscrews tighter on Stormont if they had been returned to power. But after only two or three weeks of Tory government there are already signs that Edward Heath and his ministers intend to return to the traditional Tory policy of "leaving the internal affairs of Northern Ireland in the hands of the Northern Ireland Government."

But the Northern Ireland Government is no longer effectively in control. More than 12,000 British troops are now needed to protect life and property during this hot season of Orange parades, while the government of Northern Ireland itself is being dictated to by the Paisleyites, the right wing of the Unionist Party, and by the masters of the Orange Order. Otherwise the Orange

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processions which caused renewed violence, death and destruction over the last weekend in June would have been banned under the Public Order Act, or at least diverted into routes where they would have caused the least provocation. But the Orangemen refused even to consider alternative routes. They were evidently determined to provoke the Catholics to the utmost because their aim, it seems, is to force the Unionist Premier James D. Chichester-Clark to admit Ian Paisley and his followers to the Unionist Party and eventually to bring Paisley into the Northern Ireland Cabinet. The pressure to achieve this has increased since Paisley and his colleague William Beattie won by-elections for the Northern Ireland Parliament, and particularly since Paisley was elected to represent North Antrim in the British House of Commons.

If Chichester-Clark gives way, and if the British Tories accept Paisley in the hope that appeasement will mean peace, then Northern Ireland will have become a hopelessly Fascist state. The reforms proposed by the Labour administration will be thrown out and the Catholic minority will be subjected to a persecution worse than anything they have ever experienced. Economically Northern Ireland will be ruined and the whole place will explode into another Katanga or Vietnam. Unfortunately there are some Republican extremists and some dangerously immature opposition politicians who think that such a civil war would end in the destruction of the Unionist regime.

ANDREW BOYD

## We're All Peace Candidates Now

Perhaps the best way to make it in politics is to act on the premise that the average voter has a short memory and will believe whatever you say if you can keep a straight face. Governor Rockefeller's description of himself as "a strong peace candidate" (strong, yet!) on NBC's June 28 TV *Searchlight* program takes the prize for effrontery in this respect. Rockefeller has been a consistent hawk. He has not been loud in his hawkishness: perhaps the experienced politician's inbred sense of caution warned him that one of these days support of the Vietnamese War might become a booby trap. But that he has faithfully supported both the Johnson and Nixon stands on the war is clear to anyone who cares to look at the record. A typical statement, under date of November 8, 1968, and quoted by Arthur Goldberg, is this: "The American people want an honorable peace and so does Nixon, who I am certain will achieve it. I am ready to give serious consideration to a post in President Nixon's Administration."

Not that Mr. Goldberg's utterances as U.S. representative to the UN entitled him to the gratitude of opponents of the most senseless and brutal military venture in American history. He says he tried to work against extension of the war from the inside. If so, his efforts were conspicuously unsuccessful. He certainly did not move a finger against the war publicly.

What is a peace candidate, anyway? Mr. Nixon portrays himself as the very avatar of peacemakers. His foremost talking points are that he yearns for peace even while he is extending the war, and that in extending it he is protecting American boys. He is well aware that even among the docile "Honor America" crowd who listened to Bob Hope's bad jokes and the Rev. Billy Graham's absurd sermonizing on July 4, there are few who support the war. Politicians like Nixon and Rockefeller will strike any pose that they think may get them votes. The only genuine stand for peace is one that advocates jettisoning the government of Thieu and Ky, whose continued support by Nixon makes peace impossible. When Rockefeller manfully acknowledges his mistakes, as Senator Goodell has done, when he attacks the Thieu-Ky cabal and condemns the extension of the war into Cambodia, then, and only then, can he expect his peace pretensions to be taken seriously.

## The Speaker's Seat

When democratic dissonance is confronted by authoritarian harmony at a political crossroads, the results are apt to be unpalatable. The distinction between the choice of the majority and that of a small plurality can be a sharp one. An example from recent memory was last year's mayoralty campaign in New York. The city's Democratic Party, overwhelmingly progressive in outlook, wound up nominating the conservative-minded Mario Procaccino because his four liberal opponents split among them more than 60 per cent of the vote. But thanks to the line on the ballot provided by the relatively tiny Liberal Party, Mayor Lindsay was able to corral the votes of the Democratic majority and win.

The contest for the Congressional seat from the Ninth District in Massachusetts, until now held by retiring Speaker John McCormack, appears to be developing into a similar confrontation. The process is aided by the polymorphic character of the redistricted area: traditionally Irish South Boston and Dorchester, upper-middle-class Back Bay, West End and Jamaica Plain, the largely Italian North End, the black community in Roxbury, Chinatown, and predominantly Jewish Mattapan. No more variegated district could be dreamed up, to be represented by one lone Congressman. And predictably there are a number of candidates in the Democratic primary in September, which is tantamount to election.

The conservative vote is considered to be nestled safely in the capacious lap of Louise Day Hicks, a well-heeled widow who came to public notice as a member of the Boston School Committee and now serves on the City Council. She led the field in the 1968 race for mayor, but lost the run-off to Kevin White, the young, progressive incumbent. In the process she made her mark in the annals of political oratory, and won the enthusiastic support of every bigot and racist in the city, with her classic comment: "You know where I stand!" Somehow one does.

Mrs. Hicks is, unremarkably, considered to be in the lead in the race for Congress. Her opposition is divided among three principal candidates. There is David S. Nelson, a young and attractive black lawyer, whose support is enthusiastic but, by the nature of the district, small in numbers. There is state Sen. John J. Moakley, a traditional, middle-of-the-road politician, who represents the largest ethnic group in the district, which is still far



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from a majority. And there is John L. Saltonstall, Jr., who is certainly the most experienced. During the war he served in Washington as a lawyer for the Army and the War Labor Board; he was with the ACLU during the civil rights drive in Mississippi, and he is now a member of the City Council in Boston.

There are no provisions for a run-off election, and there is no GOP candidate, in this Congressional race. Whoever receives a plurality in the Democratic primary is assured of the seat in November. Were the election held under present circumstances, it is as certain as such matters can be that Mrs. Hicks would come in ahead of her divided opposition. One can surmise that even old John McCormack would be reluctant to turn over his office to such a successor, for he, too, knows where she stands. One can hope that, before time runs completely out, her opponents will get together on some sort of unified campaign. Mr. Saltonstall would appear to be the logical one to lead it.

## 'Heavy Baggage'

In today's volatile environment the political scene can change rapidly, and the politican who has been at the top of the dungheap may find himself buried beneath it. Until a few months ago, Edward V. Hanrahan, the Cook County State's Attorney, ranked only below Mayor Richard J. Daley as a political power in Chicago. He was, in fact, slated to succeed Daley. Hardly anyone thinks of him in that connection any more. Hanrahan has survived setbacks before and he may recover from this one, but the reversal of fortunes he has suffered was scarcely conceivable until the events that followed the murder of the two Black Panther leaders, Fred Hampton and Mark Clark, on December 4, 1969, by police attached to Hanrahan's office.

"Murder" is the right term. Everyone in Chicago knows that now, and the Daley machine is disabled in consequence, at least for the time being. The disintegration of American society has not reached the point where murdering people in their beds is viewed with equanimity by most of the public and the politicians.

The police and Hanrahan described the 4 A.M. raid on the Panther headquarters as "a ferocious shootout" in which they played a heroic role. In May, a federal grand jury reported that while the police fired between eighty-two and ninety-nine rounds into the five-room apartment, only a single shot could be attributed to the Panthers. The jury also found a series of false statements by police officers and the police investigation of the incident "so seriously deficient that it suggests purposeful malfeasance." The jury did not hand down indictments. But the presiding judge, in response to petitions by the Chicago Bar Association, the ACLU, the Chicago Council of Lawyers and others, has appointed a special prosecutor, Barnabas F. Sears, to impanel a special grand jury for a renewed investigation.

Whatever the outcome, the Daley coalition of blacks, blue-collar whites, ethnics, the city bureaucracy, superannuated New Deal liberals and—so it is said—a sprinkling of "intellectuals" is in bad shape. Daley may have to run again. A high Democratic source in Chicago said that Hanrahan has also been counted out of contention for the nomination in 1972 for the U.S. Senate to oppose Charles Percy. Hanrahan "is now considered baggage too heavy for the party to carry in '72."

Yesterday it all seemed apple-pie simple, sure-fire politics. Hanrahan has been a law-and-order prosecutor and was liked in black as well as white neighborhoods because he had a record of convictions of leaders of youth gangs. Today he is a bad guy himself. Crime is still crime, whether committed by the police or by civilians, and law and order applies to the police as well as to others. Even in Chicago.

## Spiro Agnew Time

Through his attorney, Vice President Agnew has filed an objection to the continued sale of the Spiro Agnew Watch. This timepiece, of Swiss manufacture, bears the likeness of the Vice President, whose arms rotate and whose hands, each with two fingers extended in a familiar symbolic gesture, are pointed at the time.

It is reported that when the watch first came on the market, Mr. Agnew received a sample quite happily, even presenting it to his daughter, Kim. But then it was learned that Mrs. Robert Kennedy was also wearing Spiro time on her wrist; one guesses the Vice President, having encountered Irish wit in his day, became uneasily aware of distant merriment in the Hyannisport compound. Originally, no doubt, Mr. Agnew rather welcomed the chance to succeed Mickey Mouse on the timepieces of the nation—no politician avoids the chance to become a national symbol—but laughter cuts deeper than curses.

## Herbert Brutus Ehrmann

The life of Herbert Brutus Ehrmann, who died last month in his 79th year, was filled with notable achievements: recognition in his profession of the law, leadership in community affairs, widespread respect and affection.

Ehrmann is known wherever the martyrdom of Sacco and Vanzetti is remembered. With William G. Thompson he served as their counsel. His remarkable analysis of this "case which will not die" was published shortly before his death. It is safe to predict that it will be the definitive analysis of this tragic trial.

To the Jewish community, both local and international, he was widely respected for his leadership in the American Jewish Committee, of which he was president in 1959-61. A distinguished lawyer and a public-spirited citizen, he was a member of the Judicial Council of Massachusetts and a trustee of the Massachusetts Training Schools for Juvenile Delinquents. He joined a remarkable group, headed by Roscoe Pound and Felix Frankfurter, in preparing a unique study of criminal justice in Cleveland, and in their report, published in 1922, Ehrmann and his friend Reginald Heber Smith wrote a noteworthy analysis of the criminal courts.

His wife Sara had his support in her courageous and ceaseless efforts toward the abolition of capital punishment. To her goes the admiration and sympathy of all who knew Herbert Ehrmann.

REUBEN L. LURIE, Justice, Mass. Superior Court



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THE DUMDUM BULLET

# Vietnamization on Main Street

**ROBERT WELLS**
*Mr. Wells is an investigative reporter with the Los Angeles bureau of the Dispatch News Service.*

Almost half the police departments in the United States and a number of federal agencies have worked a quiet but radical change in the official application of deadly force in recent years by adopting the dumdum bullet as their standard service ammunition. This is the high-velocity soft-nosed bullet that has been outlawed for use in international warfare for more than half a century.

The dumdum is a bullet with a copper-jacketed base and a soft lead nose, often hollowed to look like the front of a jet engine. Because of an extra charge of powder the dumdum travels 50 per cent faster than the ordinary police bullet. When it hits, the impact, especially in the hollow point, causes the lead to mushroom back over the copper jacket, expanding the bullet from .35 caliber (the actual size of the .38) to roughly .60 caliber in the first 2 inches of flesh. This violent expansion, coupled with the extremely high velocity, gives the bullet an explosive effect in the victim.

The dumdum has come into police service not as a special riot or anti-insurrection measure but as a result of long-standing police concern with the ineffectiveness of the .38 caliber pistol. The ordinary .38 bullet, a relatively hard alloy with a rounded nose, is notorious for its lack of stopping power, and its high penetration makes it a threat to others beyond the intended target. The mushrooming dumdum, by contrast, has tremendous shocking power, and usually stays inside the victim.

Individual police officers have long been "doctoring" regulation ammunition, clipping bullets to make them tumble in mid-air and "keyhole" in the victim, or notching them so that they shatter or expand. But this has been done at great sacrifice in range and accuracy. It was not until 1963 that a small arms company, the Super Vel Cartridge Corporation of Shelbyville, Ind., made factory-standard dumdums available to American police.

Lee E. Jurras, president of Super Vel, estimates that 46 per cent of all law-enforcement agencies in the country are stocking dumdums. Jurras says that since 1967 the U.S. Treasury Department, Secret Service, Bureau of Narcotics and the White House police, have been purchasing hollow-point ammunition. Some of the country's larger departments, such as the St. Louis Metropolitan Police, the Los Angeles Sheriff's Department, and the police and sheriffs in Seattle, Wash., have been arming their men with nothing but dumdums for several years.

Some departments, like the Peoria, Ill., police and the Shelby County (Memphis), Tenn., sheriffs, make use of dumdums optional with their officers. The San Francisco police use the .41 Magnum revolver with soft-nosed ammunition, a gun so powerful that one San Francisco policeman jokingly said "it ought to be on wheels."

A good many Americans believe mistakenly that "our police can't use the dumdum" because use of the bullet against human beings has been outlawed by international conventions. Police point out that this country's international agreements do not apply inside the United States: since there are no domestic laws governing police ammunition, the only limitations on the police are their own regulations, which they make and change themselves.

Nevertheless, the ethical and humanitarian considerations which led to the banning of the bullet in international warfare have led some police officials to decide against it for their departments. Other police commanders feel differently. Their position is that the object of shooting a man with a firearm is to kill him, and that whatever bullet accomplishes this most effectively with the least danger to bystanders is the ammunition for their men to use.

However else they may differ, though, most policemen agree that this is a matter strictly for the police—that the less the public has to do with it the better. "This is a touchy subject," says Super Vel's Lee Jurras. "A lot of minority groups might object. We like to keep the discussion within law-enforcement circles."

Dissatisfaction with the .38 caliber hand gun goes back at least to the Philippine insurrection of 1899-1901, when the Army found its .38 Long Colt did not have the power to stop a charging enemy. A special committee of inquiry decided that no pistol bullet of less than .45 caliber was suitable for combat; since then the regulation Army side arm has been the .45 automatic.

Police did not make the change. Though in recent years some departments have adopted the .357 Magnum (the high-powered version of the .38), the .45 automatic or the .41 Magnum, the .38 Special is now in its second half-century as the standard American police side arm.

Reaction against the .38 began to take shape in 1963. Writing in a professional police journal that year, Prof. Allen P. Bristow of Los Angeles State College described the results of a survey into gunfight deaths of police officers. He recounted a number of cases in which suspects had continued to fire on police even after they'd been hit one or more times with standard police bullets. In Professor Bristow's opinion, the main cause of police deaths in gunfights was the lack of stopping power of .38 caliber police ammunition.

In 1965 the Phoenix police, using standard .38 caliber "ball-type" ammunition, shot a felony suspect on a downtown street. All the bullets passed through the suspect and one felled a bystander a block away. Following this incident a special panel of civilian firearms experts and top-flight shooters from the Phoenix police conducted exhaustive range tests to determine the type of ammunition best suited to police needs.

The panel concluded that the maximum of hydrostatic shocking power in flesh, combined with the least likelihood of exiting from a suspect, maximum penetration of automobile bodies, and least hazard of ricochet, was offered by the lightweight high-velocity hollow point de-



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veloped by Lee Jurras of Indiana. The Jurras bullet was adopted as the standard round of the Phoenix police.

When police officers talk of the impact of a bullet in a human target, they speak in terms of hydrostatic shock. This is the shock created by a projectile striking a body of static water. The faster the projectile, the greater the shock.

The human body is composed mostly of liquids, and it behaves accordingly when struck by bullets of different velocities. An ordinary round-nosed bullet will deliver "punch," destroying the flesh it actually hits. But the dumdum, because of its extremely high velocity, sets up lateral hydrostatic shock waves in the body which themselves destroy flesh—"splash" in addition to "punch." At the same time, the violently mushrooming lead tears exaggerated wound channels through the victim.

In range tests conducted by the Concord, Calif., Police Department in late 1967, different types of .38 bullets were fired into sealed 5-gallon cans of water. The standard .38s made various holes and dents in the cans. When hit with the high-velocity Super Vel hollow point, the cans literally exploded. "The bullet doesn't explode," said one West Coast police captain. "You do."

In the field, the dumdum is performing as intended. Police Capt. Russell T. Hiatt of Anderson, Ind., where hollow points have been in use since 1963, tells of three cases in Anderson and three others in nearby communities in which "the result was fatal to the criminal almost instantly, and in all cases just one shot was fired." Captain Hiatt tells of one occasion where he himself shot a fleeing suspect with a Super Vel hollow point, hitting him in the groin. "The shot penetrated the main artery in the groin and exited. The subject continued running for about two minutes and fell over dead. He bled to death."

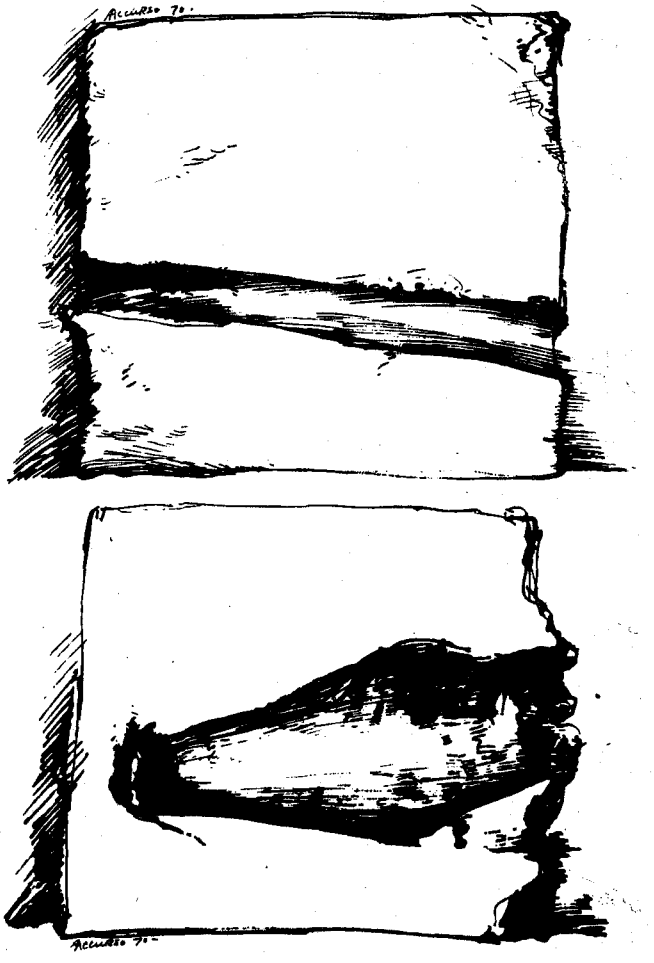
Although the Los Angeles police department range-tested the high-velocity hollow point and decided against adopting it, the bullet is used by the Los Angeles sheriffs, and by police in Beverly Hills, Santa Monica, Pasadena, Long Beach, Culver City, and in many of the county's smaller police departments. Subjects of police shootings are taken to the Los Angeles County-University of Southern California Medical Center, and Dr. Margaret M. McCarron, assistant medical director of the hospital and head of the jail ward, may have more experience than any other doctor in the country with gunshot victims of high-velocity dumdums.

"In my experience," she says, "the type of wounds caused by these bullets is definitely more severe and represents a radical change from the type of wound inflicted by the old type bullet. The high velocity hollow-point bullet shatters the flesh." She has compared the effect of the dumdum to "an explosive charge going off inside the victim's body." A doctor in New York State who performed an autopsy on a dumdum victim said the internal shock had been so great that it was impossible to distinguish one organ from another.

Rep. Leonard Farbstein of New York City has begun working on legislation that would impose a high tariff on interstate commerce in dumdum hand-gun ammunition. His intention, he says, would be to keep such ammunition out of the hands of criminals, but he would write the legislation so that it would apply to police also. Farbstein wrote last spring to Secretary David Kennedy, requesting that the Treasury Department impose an embargo on the approximately 18 million rounds of dumdum pistol ammunition that come into this country each year from Europe. In replying for Secretary Kennedy, Eugene Rossides, director of the Treasury Department's Office of Law Enforcement, denied the request, saying such ammunition was needed by American police.

The dumdum takes its name from the old British Dumdum Arsenal in Calcutta, India. During the great Sepoy Mutiny of the 1850s hard-cased points of .303 caliber Lee-Enfield rifle bullets were filed off at the arsenal to make them mushroom. Later, these "Dumdum" bullets were used in British campaigns against the Afridis and the Fuzzy-Wuzzies. In the Boer War, both British and South Africans used dumdums unofficially. In the First World War each side frequently shot captured prisoners with dumdums or doctored bullets in their ammunition pouches.

It was the "shattering of flesh" that Dr. McCarron refers to, the gross physical destruction caused by the dumdum, that led to the bullet's being banned in inter-



*Paths made in a 5-inch block of modeling clay by a standard police bullet (above) and a dumdum bullet (below). The bullets are those discussed in the text and the drawings are accurate copies of photographs that appear in a technical leaflet issued by the Super Vel Cartridge Corp.*



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national warfare. At the Hague Conference of 1899 a declaration was adopted stating that—

> The contracting parties agree to abstain from the use of bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core, or is pierced with incisions.

The 1899 declaration against dumdums was renewed in Articles 22 and 23(e), Chap. I, Sect. II, of the Hague Declaration of 1907. This was adopted by the United States. After ratification by Congress, the Hague Declaration was signed into law by President Theodore Roosevelt in 1909, becoming part of the United States Statutes at Large (61st Congress, 36 Stat. 2277).

American police are correct in stating that this declaration applies only to international warfare: it has no effect inside the country. But how do they respond to the fact that on the basis of battlefield experience the use of ammunition they now employ has been declared a war crime?

Lieut. Joseph Mackie of the King County (Seattle, Wash.) sheriff's department meets this question head-on in his official report on range tests of the Super Vel hollow point: "There is no real problem," he says. "Hollow points are not illegal. As of January 1968 over 300 departments were issuing Super Vel hollow points, including the Los Angeles Sheriff's Department and some Federal agencies. When we consider we are carrying a shotgun capable of tearing off a limb or disemboweling a person with one shot, it seems rather ridiculous to have qualms about the fact that there is a hole in the end of a pistol bullet." (The use of shotguns is also outlawed in international warfare.)

Lieut. Gerald W. Doyle, Academy Commander of the Riverside County, Calif., Sheriff's Department, which uses the dumdum, agrees with Lieutenant Mackie. "You ask about moral objections," he says. "I would counter any such objections with our shooting policy. We are authorized to use a firearm only when all other reasonable means have failed, and then only in situations where the officer's life or the life of an innocent third party is in immediate danger.

"Under such circumstances the object is to stop—kill, if you will—the person so endangering lives, immediately, so as to remove the threat."

"There seems to be no other method to meet deadly force, except by deadly force," says Joseph Paul Kimble, Chief of Police in Beverly Hills, where the high-velocity hollow-point dumdum is regulation ammunition. "The police officer carries a revolver as a defensive tool, to be used to protect the public and himself, against such persons who would employ deadly force to accomplish their ends. To give lip service and spew rhetoric about nonlethal apprehension of a gunman may be fashionable in some circles but the police officer on the street has to live, or die, in the here and now of realism and the dictates of our society. To expect anyone to defend the law-abiding citizen or himself with anything less than equal force is not realistic."

The Arizona Highway Patrol did seem concerned with public opinion. When they encountered moral doubts about their adoption of the dumdum, from people in the department and from some Phoenix attorneys, they invited the doubters to the Highway Patrol range, where a demonstration that the dumdum will not exit from a suspect's body, and that it will not ricochet (instead of bouncing it disintegrates), apparently convinced the doubters that the bullet was safe enough to use.

Inspector Lewis Coffey, chief of the Cleveland Police Department, which uses a high-velocity .38 bullet, is

blunt on the subject of moral objections and public opinion. "Moral objections," he says, "are always the cry of the weak and uninformed."

Not all those with objections are uninformed. The use of dumdums and high-velocity bullets by police officers is specifically forbidden by departmental regulations in Detroit, Los Angeles, New York City, Dallas and New Orleans among other cities. Los Angeles police chief Edward M. Davis has said that "the object of shooting a fleeing suspect is to stop his forward motion, not to blow his leg off. I would never allow my men to use any weapon which mangles people."

B. R. Baker, Chief of Police in Berkeley, Calif., says the high-velocity hollow-point bullet should not be used in the crowded city. (Interestingly, the Mississippi State Police say it may be good for cities but not for the open highway.) "As we know from experience," says Chief Baker, "all rounds fired from police revolvers do not strike their intended target, and there are those tragic occasions when an innocent bystander is struck by a stray bullet. At this time we are not willing to accept the risk of a high-velocity hollow-point projectile, with its attendant explosive effects, striking an innocent citizen."

In next-door Oakland, birthplace of the Black Panther Party, Chief of Police Charles R. Gain reports that "we have expressly prohibited the use of hollow-point ammunition. During our study, we gave particular attention to the new high velocity hollow-point rounds which are on the market, and we discounted them when we ob-



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served the severe tissue damage such rounds are capable of delivering."

Dr. A. C. Germann, professor of criminology at California State College at Long Beach, a former Los Angeles policeman, one-time police chief of Multnomah County, Ore., and an author of the standard college text in police science, served as a special consultant on police-community relations to the President's Commission on the Causes and Prevention of Violence. He says: "If proper controls were exercised over the policeman I wouldn't care who had the dumdum. But there isn't sufficient control—he's shooting like crazy all over the country.

"Put this kind of gear in the hands of a sadistic policeman—there are some of those, you know—or into the hands of an emotionally unstable or misdirected cop and you are giving a very dangerous and cruel weapon to a very dangerous man. Some things are by their nature preferably banned by common sense and humane compassion."

Richard A. Myren, dean of the School of Criminal Justice, State University of New York at Albany, consultant to the Task Force on Police of the President's Commission on Law Enforcement and Administration of Justice, is uncompromising: "It is inconceivable to me," he says, "that our police should be authorized to use a weapon that we forbid our soldiers to use in war."

We now have behind us more than a decade of high-sounding calls for "professionalizing" law enforcement. Some police may feel that use of the dumdum is a mark of their professionalism. But the dumdum bullet has a special place of disgust and horror in the minds of most Americans; whether or not the Hague Declaration applies domestically, it is not too much to say that it represents the consensus of American moral opinion that this bullet is not to be used against human beings anywhere. By adopting the bullet in secret, by seeking to justify its use on narrow, legalistic grounds, by brushing aside its ethical and moral implications, the police service shows how far it still is from a true professional concern for the larger issues of community policy. "What we are encouraging," says Professor Germann, "is a kind of killer professionalism, a Green Beret type of thing."

This May in Memphis, police took the unusual step of announcing to the press that they were changing over to the high-velocity hollow point. But even this was no plus for the image of police professionalism. Police Chief Henry Lux told the Memphis *Commercial Appeal* that he believed the new bullet "would do less damage to a person than would a conventional bullet." The difference in injury, he said, would be minor, depending "upon the angle at which the bullet struck the subject and many other considerations." Two weeks later, when an article by *Commercial Appeal* staff writer Kelso Gillenwater described the true character of the bullet in well-researched detail, it became apparent that Chief Lux was either basically ignorant of the ammunition he was adopting, or else was publicly lying.

Whether or not the police should patrol the streets armed with dumdum ammunition should be a decision for an entire community, after broad and searching public debate. And it is not the sort of issue that should be decided simply by a majority: the bullet should not be used if it offends even a significant *minority* of a community.

With the advent of the dumdum it may well be time for us to leave to our Chiefs of Police the technical decisions which they have been trained to make, and to begin finding ways of relieving them of responsibility for decisions that ought to be the business of officials who are accountable to public opinion. □

TELEVISION IN NEW YORK

# HITCHES IN THE CABLE

**SIDNEY W. DEAN, Jr.**
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On July 23 the Board of Estimate of New York City will hold public hearings on proposed twenty-year franchises for two cable companies to provide cable television and other broad-band cable communications facilities to the Borough of Manhattan. After these hearings have been held the Board of Estimate is empowered to grant the franchises which have already been privately negotiated by the Corporation Counsel's Office and the city's Director of Franchises. The two cable companies involved have been operating in New York under interim franchises since December 1965. Manhattan Cable TV, a subsidiary of Sterling Information Services in which Time, Inc., has a major interest, is franchised for the southern section of Manhattan below 79th Street. The TelePrompTer Corporation, in which Howard Hughes has large holdings, is franchised for the northern section.

High capacity cable systems can help solve nearly every major communications problem faced by New York and other urban centers in the coming decade. (See Ralph Lee Smith, "The Wired Nation," *The Nation*, May 18, 1970.) The city's communications loads are expanding at an accelerated rate that is breaking down the capacity of its telephone system, postal services, highways and airports. The granting of twenty-year cable communications


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**SUMMER SCHEDULE**

During the summer, *The Nation* will not appear on the following dates: July 13, July 27, August 10, August 24.

franchises in the city that is the hub of the country's communications industries and the headquarters of its business, financial, and cultural activities is therefore a matter of great importance to the city, to other major metropolises, and to the country as a whole. Yet the franchise agreements that will be placed before the Board of Estimate on July 23 have been negotiated privately by the City Corporation Counsel's Office and the Director of Franchises with the two companies in utmost secrecy. Not since the negotiations commenced has the city explained to its residents the problems, opportunities and issues involved, nor has it sought the views of the numerous business, financial, communications, civic, cultural, minority and other groups whose interests are so vitally at stake.

As of three weeks prior to the hearings, even the actual text of the complex agreements was not in print. Civic, business, and other groups that will wish to testify will have had the documents in hand for only the briefest period of time, and in the middle of the summer when many of their officers and policy boards will not be available. Actually, the only interests that are being served by this secrecy and haste are those of the City Treasury, which wants the high fees that the cable companies will be required to pay under the franchises, and the two companies that want the security of the long-term franchises to secure new capital and borrowings.

The interest of the city's people, its business and financial community, its communications industries, and its cutural life are directly opposed to the haste and secrecy of this process. The interest is in securing orderly and fair procedures for the granting of long-term franchises, in order to permit cable communications in New York to develop openly, step by step, in an interchange between the city, the cable companies, and the multiform groups and functions that the cable communications network exists to serve.

The franchises that the Board of Estimate will consider on July 23 are probably the most progressive cable agreements ever drawn up by a U.S. city; most cities have ignored their functions as public advocates in granting franchises to cable companies. Nevertheless, the proposed agreements are seriously deficient in protecting the public in three large areas. First, enforceable safeguards for assuring the maximum benefit to the public from cable technology are lacking. Second, certain provisions of the agreements actually restrict or prohibit functions of the cable that it would be in the public interest to open up. Third, the granting of long-term franchises under detailed conditions at this time locks the city and its cable network into existing technology and social uses at a time when many far-reaching studies in both fields are under way.

The limitations on the uses of the cable that are imposed by the franchises do not stem from limitations in available technology. Dr. John R. Pierce, former head of Bell Laboratories and perhaps our most distinguished communications scientist, has asserted that all of the technological solutions are available, and that our real restrictions are self-imposed restraints on the rate at which we choose to appropriate capital and deal with the limitations he termed "political."

The economic and financial significance of awarding long-term monopoly rights to install cable in Manhattan are staggering. As with all of the 2,300 franchised cable territories in the country, with their 4.5 million subscribers, the grant of a cable franchise inescapably establishes a competition-free monopoly in the area it serves.

Based on the RAND Corporation's and AT&T's private estimates of the capital investment required for a full-service, two-way national cable system, a system for Manhattan's residential, business and institutional needs will ultimately require a $1 billion plant and equipment outlay. The system's revenues from carrier services alone can total $400 million to $500 million per year. Additionally, the carrier would handle sales and collections for entertainment, the media, education, and shopping which could amount to more than $2 billion per year.

Manhattan, therefore, represents more than a case study of the municipal struggle to harness the new technologies of communications to the public interest. A cable base in Manhattan is pivotal to the development and control of the regional and national cable networks to come.

The proposed contracts allow operators a year to expand from twelve to seventeen channels and three years to provide twenty-four channels. Of the seventeen channels, eleven are needed for local stations; two would be donated to the city for municipal services; one would be a "broadcast" channel controlled by the operator; two would be "public channels" leased by time segments to the general public; one would be for "additional services" of a telecommunications nature on a common carrier basis. The basis of rate setting for the open channels is vague; the memorandum from the Corporation Counsel and the Director of Franchises to the Board of Estimate states: "Initially, all charges (other than to home subscribers) are left to the companies to set." The operators are given the right to employ all unused channel capacity for their own purposes.

Plant and equipment for cable television are depreciated for tax purposes over a period of five years, and manufacturers postulate that equipment will become competitively outdated in performance and operating efficiency in four to five years. Therefore, a franchise term exceeding five years is an invitation to incurable obsolescence. The chief safeguard against such obsolescence in the proposed franchises is a "matching" provision, whereby improved terms in future franchises granted in other areas of the city will be incorporated into the Manhattan franchises. But the staff memo recommends that the terms of the negotiated Manhattan franchise become the terms for the rest of the city! A "sundry provision" of the franchise further empowers the board, if it elects to award no franchises in other areas of the city after competitive bidding, to award the other areas to the Manhattan franchisees on the same terms and conditions as in Manhattan!



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A fundamental capability of the cable not provided for by the proposed franchises, unless it is incorporated at a later time under the "matching" provisions, is its tremendous potential for two-way communication. Only with two-way control can the subscriber be liberated from restricted selection among the choices made by others by dialing out his own choices from "exchanges" of complete offerings and from central libraries of past as well as present information and culture.

Only a few days after the submission of the proposed franchise, the Federal Communications Commission announced that it "intends that new systems be designed to accommodate two-way communications for those subscribers who want them." Jerrold, the largest hardware manufacturer, Rediffusion Ltd., the largest cable operator in the world, and General Electric are among the manufacturers now offering two-way systems.

Another important potential of the cable is its adaptability to optional payment which is essential to a free marketplace for ideas, information and the services which cable can market. It is a requisite for a U.S. telecommunications policy presented by the ACLU to the President's task force. Yet, the proposed franchise bans "Pay TV" in ambiguous terms, thus dampening rather than encouraging development of a critical capability of cable.

The paramount need of New York is for full communications capacity with maximum diversity of services to protect and advance its leadership in management, culture, industry and finance. Yet the proposed twenty-year cable agreements guarantee the availability of only eight one-way channels for general public use in the world's largest communications center. In the same notice of rule making, the FCC also warned cable operators "to avoid the economic burdens of installing inadequate systems that would soon need to be expanded at extra cost."

Television Communications Corp., headquartered in New York, is installing a forty-channel system in Akron, Ohio. The New York Telephone Co. has extensive coaxial cable systems in Manhattan. They lease the distribution system to Comtel, a midtown cable television operator who has no franchise from the city. Comtel and New York Telephone claim that they can supply on notice unlimited capacity with two-way capability at competitive quality. As a common carrier, New York Telephone must provide service to anyone at uniform terms.

A practical goal for cable capacity and flexibility was defined by the national Electronic Industries Association, in its 1969 recommendations to the FCC. They include dual systems to each subscriber consisting of fifty-channel circuits with limited switching and two-way facilities, plus a narrower band sound, picture, and data system, like

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AT&T's Picturephone, with unlimited "telephone exchange" switching flexibility. Should New York City make a long-term contract for less?

The terms of monopoly franchises for other essential services like electricity, gas and telephones invariably require that the total capacity and feasible services satisfy reasonable public demands. A metropolis without open communications channels and media cannot function as a market economy, a free society or as a self-governing polity.

It may be informative to the rest of the nation to consider how New York City has arrived in this quandary. Perhaps the most important reason has been the plausible and politically powerful assumption that securing new municipal revenues should be a first consideration. The proposed New York City levies are heavy: 5 per cent of gross receipts from residents, 10 per cent from the lease of channels to communications services and business users, up to 25 per cent for Pay TV. Payments would be in addition to standard city, state and federal taxes. These charges will be passed through to the rates for subscribers and communications services, unrelated to ability to pay or to public benefits from the services.

The second installment of the RAND Corporation's report to the Ford Foundation last May is entitled "Cable Television: Problem of Local Monopoly." The author, Richard A. Posner, professor of law at the University of Chicago, cautions against the city's method of awarding franchises based on percentages of gross revenue. He was especially concerned for its effect on new and growth services. The report states: "Even when a bidder offers a percentage of gross revenues so high that it would require him to operate at a price level where output was extremely small, he would still obtain monopoly profits. There is therefore room for a still higher bid involving a still smaller output." Professor Posner examines an alternative to the percentage levy which he terms "The Bargaining Approach." In effect, the city would select the applicant who offered the best package of public services at the lowest rates, both to subscribers and to the suppliers of communications services. There are major problems in evaluating the offers, but the plan places proper emphasis on present and future services rather than on city revenues. There is far greater revenue potential to the city from the most rapid and diversified expansion of capacity and services than there is from maximizing immediate tax collections.

This month, New York State is to begin legislative hearings on a new bill to establish a State Commission on Cable Television, and adopt guidelines for municipal franchises. A provision of the bill would disqualify franchise applicants who engage in either program and content supply or equipment manufacture and distribution. When cable or broadcast carriers are permitted to profit from the sale of advertising or the sale of content services direct to the public, they are automatically provided with profit incentives to maximize their audiences by reducing the variety of competitive choices, and thus the supply of channels.

The proposed city franchises forbid officers and directors of cable companies from owning interests in TV and radio stations and networks, and newspapers and magazines whose circulation is mainly in the city. They are silent on interests in program and film production and syndication, business information, computer services, and many other types of logical communications services. Yet cable carrier involvement will create the same profit incentives for restricting channel capacity and obstructing access by competitors that corrupt broadcasting.

New York City is not alone in its lack of capacity and resources to grapple with the new technologies of cable communications and their financial, legal and operating concomitants. The Congress has been unable to legislate. Only five states have been able to enact even a loose jurisdiction. But at long last, almost a dozen major cable studies have now been undertaken by public and private policy groups, foundations and industry bodies.

The Alfred Sloan Foundation has appropriated $500,000 for a study of cable communications for our cities, to be completed in late 1971. President Nixon, on congratulating them, said: "The power of new technologies to impose change is beyond dispute. But we have learned in recent years that there is nowhere any assurance that change will necessarily be beneficial. Perhaps for the first time in history, we are aware that the time to think about the consequences of a technology is before it is very nearly beyond reconsideration. A new technology can take society down many roads, not all of which lead to agreeable consequences." In reply, Nils Wessel, president of the Sloan Foundation, stated:

> Within a few years many or most city dwellers in the United States will be linked by cable television systems that will constitute the most powerful communications system ever conceived. It is now possible to imagine a revolution in the manner in which such urban necessities as health services are provided. Systems of vocational education linked to employment services might contribute massively to the economic well-being of the city. Cable television, uniquely capable of serving small cities and areas within the large city, might make a major contribution to community development.

The Ford Foundation is assembling a new cable task force. The Electronic Industries Association has employed Arthur D. Little for a $500,000 feasibility analysis of cable networking. The RAND Corporation has not completed its cable study for Ford. The Stanford Research Institute is preparing a three-part report on all major aspects of cable applications to urban problems. In fact, the vast benefits of cable communications to improve the quality of life and the human processes of self-government are now only beginning to be understood. The nature of ownership, control, regulation, and the creative forces of economic incentives and disincentives required for these systems have hardly been appraised.

With so many problems unanswered, despite major studies under way, twenty years' crippling penalties can be imposed on the city by premature decisions. The City Club of New York, which favored the trial of cable television in 1965, now recommends to the city that the interim Manhattan franchise be extended for a third two-year term, and that the city promptly establish the planning group called for by the 1968 Mayor's Task-Force



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Report. Working liaisons and exchanges of knowledge and experience should be promptly established with the half-dozen major cable study groups. In the interim, the city should give practical assistance to the two Manhattan operators, especially to break the logjam of landlord obstruction.

The cable group must also call in all city staffs with resources for longer-range planning. For example, the city's new Master Plan, representing years of effort and millions of dollars, has not yet given consideration to the capabilities of broad-band communications for solving the city's crises of area congestion, traffic, transportation and communications. The city is in a unique position to explore the immediate feasibility of major expansion of cable benefits which private firms and smaller governments cannot tackle. The following are proposed for consideration:

(*1*) The benefits, costs and profitability of providing a free cable terminal outlet in every home and nonprofit establishment. The outlet, connected to the television set, would bring in all the municipal, educational and nonprofit stations on the cable, leaving commercial TV stations to be received by antenna. In addition, the cable would deliver in-home and vocational education, city and nonprofit services, and even advertiser-supported programming through the set's unused channels. If the subscriber wished to receive the commercial TV and FM stations, he would pay the standard fee. If this "sampling" secured new subscribers even two months earlier than expected, it would pay for itself. In addition, a near-100 per cent access to every family would open up new sources of revenue from government services, research organizations and advertisers.

(*2*) Full-service cable demonstration areas with two-way circuits for education, community involvement and social programs in a representative poverty area, with free home and institutional connections. The East Harlem community planning district, now served by TelePrompTer, would be appropriate. It would be productive to conduct a matching demonstration in a community like Greenwich Village, which has diversified residential and industrial populations and unique educational and cultural originating centers for export as well as for its own consumption. The Village is in Manhattan Cable's franchised area.

(*3*) Provision of television receivers and other terminals on a lease-service basis, like telephone instruments, in a community like East Harlem. By quantity purchase and maintenance economies, the benefits of full cable services could be provided far under the economic cost of private purchase and maintenance.

Innovative developments such as these have tremendous national revenue and profit potentials, and should attract private sponsors and funding. Additionally, contracts for the carrier services, but not for the provision of content, can be given to the Manhattan franchisees. The harnessing of technology to the future of the city calls for management, innovation and investment, and the city's will to use them. □

LIVING-ROOM CONFRONTATION

# THE RAGE AGAINST VIOLENCE

**KINGSLEY WIDMER**

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Four students and two faculty members, a combined peace task force from local campuses, were scattered amidst about twenty middle-aged non-academic citizens and the overfurnishing of a well-to-do suburban California living room. There was a welded sculpture, several slightly liberal monthly magazines, shelves of the more serious sort of book club selections in still clean dust jackets, and the other signs of earnestly affluent moderate culture. And there was a doctor, a lawyer, several middle-range civil servants, a stylish woman who ran a public relations agency, a grimacing recreational director, several middling businessmen, a tract-land contractor, a sternly depressed stockbroker, and others of anxious, moderate politics. For the students and teachers this was but one of thousands of recent forays from campuses across the country usually described as "going out into the community," a touching, dedicated, and somewhat desperate effort to spread criticism of the American Indo-Chinese War and to explain the protests against it.

Sometime during the evening I became aware that under the uncertain affability lay surprising currents of rage. Surprising because there were no belligerent chauvinists among these straight suburbanites—the hawkish conservatives generally do not attend these moderate-to-liberal gatherings which presuppose doubts about the war and some sympathetic concern for the protesters—and because the more radical of the campus visitors were conscientiously restrained in their efforts to mobilize the moderates.

Nevertheless, the extremity of feeling was present, as in the tense tremolo with which a wife inquired if *all* the protesters were on drugs. It slipped out in the flushed embarrassment with which a freshly beard-trimmed student broke off from rhetoric about "American imperialist aggression" to strain back to the lower-keyed phrases so much more suitable to this audience, such as emphasizing our "mistake" in Vietnam and the "unfortunate polarization" of Americans. It echoed in the grimly muttered reply of a teacher to the pious assertion that after all, "Americans were really helping out over there"



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—"My Lai, My Lai." And it rose in the overloud last speech, an interruption to the serving of coffee and cake, by the contractor who cracked his knuckles as he angrily concluded that "some people" just couldn't bring themselves to "talk about all the good things in this country because they're so undemocratic and full of violence."

That seemed to be the final concern in these genially and earnestly upholstered surroundings: violence. The ostensible theme for the evening's discussion, "The Community and Campus Protest," had quickly been changed into the plaintive, "What do the students really want?" According to the students, they wanted above all to stop a violent war and everything that went with it; according to the substantial community, the students acted as if they wanted a violent war. Several times I tried, no doubt with a foolish intensity, to argue directly the violence issue. "Here we have all this concern about campus violence, about a few broken windows, when we are smashing tens of thousands of bodies, as well as entire societies, in Southeast Asia," I said with stock radical emphasis. "Doesn't this demonstrate a horribly misplaced concern, our sadly characteristic falsification of humane priorities?"

The attorney interrupted, with a smugly didactic tone, to point out my "logical obfuscation" in justifying violence on campus by violence in Vietnam. Until then, silently fidgeting, the doctor's wife, apparently encouraged by the hostile tone, recited, with tense cords protruding in her neck, the catalogue: "Not just windows but all those terrible things—burning that ROTC building in Ohio, bombing that bank at Santa Barbara, blowing up that million-dollar computer at Fresno State. . . ." The most detached appearing of the guests squeegeed forward on the couch to add an appendix: "*You* should certainly feel for that poor professor at Stanford who had twenty years of research papers destroyed by the violence!" Indeed I did, but could hardly resist retorting that, as parents if nothing else, we both ought to feel far more for those destroyed by violent police and violent National Guardsmen and violent foreign policies, and not direct our anger at disruptions of scholars and schools but at the vicious ordering of our society which is finally to blame for the murders.

That, of course, was coming on too strong, too harshly, against the usual forms of authority and of faith in self-goodness, both so essential to moderate Americans. The violent-protest issue, and any words which steamed in its defense, spread chills and fever throughout the suburban living room.

Whether "going out into the community" will be more successful in ending the war and initiating other changes than the protest politics of campus and street, I don't, in my radical impatience, pretend to judge. Certainly the efforts show considerable moral seriousness as well as poignancy, not least in the usual ritualistic finale of the passing around of petitions and the hearty self-congratulations on "dialogue." No doubt there is some human gain in our disintegrating society from these face-to-face scenes. There was an impressive persuasiveness in the lucid antiwar fervor of the blonde young woman majoring in biology and in the sincerely sad descriptions of how Americans behave in Vietnam by the former copter pilot turned graduate student in political science. That tangible humanity, not my radical critiques of United States foreign policy or rhetoric in defense of protest, just may get across.

But such connections meet powerful resistance in that rage within which so much of the community teeters, that angry aversion to any disruption, and that outrageous equation of all dissent with violence. Granted, something more than a few windows have been broken—my too facile metaphor—but even a prudent citizen's accounting, if he will pause to make it, must conclude that all the human and material cost of a year's protest sums up to considerably less than that of a day's war in Asia. And while I must accept the debater's point that the logic won't do which makes violence abroad simply the obverse of violence on campus, still, all our violences can only be understood as part of the same psychological and ideological fabric. Our protest did not arbitrarily choose violence; it was driven to it by an unresponsive order parading as "moderation," and by the arrogant coercion which characterizes the American Second Empire style [see "Why Dissent Turns Violent," *The Nation*, April 7, 1969].

In discussions with others who have gone "out into the community" (the phrase bothers me since I detect rather more community on campus than in the privateering, isolating suburbs), I find confirmation, if any be needed, of that rage about violence. Consequently, some ardent peace activists now again draw the conclusion that all protest against the war, or dissent of any kind, must be so absolutely peaceful and legal as to be quite nondisruptive, and not even display bad manners for fear of offending. As if those being protested against did not define order and legality and good manners for their own self-interest! No doubt purely nice dissent would be reassuring to many, but it would also be unlikely, irrelevant and rather undissenting. Protest which does not in some way disturb consciousness, disrupt standard responses, and make strong demands on conscience and commitment, is not in any significant sense dissent.

In abstract democratic theory as well as in terms of decent human feelings, violent dissent does not often seem defensible. Most of the "trashing" by militants seems rather stupid. However, the negative effects of violent protest are usually much exaggerated, and not just in suburban living rooms. The more sophisticated all too victoriously point to the repression violent protest may engender, as if such coercion weren't essentially there, in viciously disguised forms, anyway. We should note some other ironies in what one of the living-room moderates called "decent dissent." Patently, there would not be the community-campus dialogues without some sort of trauma to initiate them. We would not have been invited to the ostensibly peaceful suburbs without the recent cycles of violence. Such disproportions are built in. And the rage about violence is part of violence itself, evident not only in our media-fed fantasies and typically angry American faces on the streets but in the over-responses: the obsessive anger, the trembling tones, the taut necks, the cracking knuckles, and the compulsive equations of violence,



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not with our militaristic and piggish coercions but with the logic of dissent.

Much of the popular response to "violent" protest seems peculiar as well as violent. Take the obvious misuse of the term "violent." In many moderate citizens' diction it covers not only physical assault and armed attack on persons but any property damage, any disruption, and even quite orderly and gentle demonstrations. I have specifically noted the label of "violent protest" to describe the waving of picket signs, the lowering of the flag to half-mast, chanting, booing, the use of obscenities, and even the mere gathering together of considerable numbers of students. And how is it that common-sense distinctions, such as the rather considerable one between breaking a window and breaking a head, or between throwing a pop bottle and firing an automatic rifle, seem to have quite disappeared from the language, and apparently the minds, of so many? Without such distinctions, all life soon becomes fearful, and violent.

We can readily understand the *metaphor* in speaking of negative rhetoric, such as that of the Panthers or the "street people," as "violence," but hardly the loss of discrimination in which such rhetoric gets subsumed into

beatings and murders, and calls forth similar feelings. It has often been justly noted that for obvious reasons in our "ideology of economism" many Americans show more outrage about property damage than about human damage. But we may have gone beyond that until there can be no expression of a differing view, no resistance to what is, which does not trigger the anti-violence syndrome in many moderate Americans. When, in the May days after Cambodia and Kent, George Winne, a young history major at the University of California, San Diego, wrote a despairing note ("For God's sake stop the war!") and then burned himself to death in the campus plaza, many apparently responded as did that good citizen whom I heard comment, "Another violent student!"

It would be futile to argue against such moral and intellectual insensitivity. We might better reflect on its political significance. Traditionally, political thinkers view the protest-and-police violence as the breakdown of authority. Certainly now many protesters see violent repression as a revelation about our authorities, while the more acquiescent citizens take it as the proper role of our authorities. *Both* responses testify to a loss of moral legitimacy, social sanctity and political justification. The grimly eager announcement several months ago by California's Governor that he was ready for a "blood bath" on the campuses has become a demonstrator's chant and a rightist's demand. Both sides, then, tend to see violence as a proper manifestation of politics. The truth comes out.

As a radical, I have usually held that American domination finally depends upon force, on violence concealed by small doses when successfully administered. Those who accepted force, so long as it was decently spooned out, now come up against politics-as-violence. They rage against those who reveal such truth. Probably they are less upset by the violence itself than by the painful recognition that coercion constitutes our essential political and social authority.

What has most changed, then, is neither American political dominations, nor social accommodations to them, but, even in the suburban living rooms, the sense of justification. Indeed, the violence tells us that our society has failed to change; its coercions, and the reactions against them, simply become more overt. America, contrary to apologetic rhetoric about "new problems," seems pretty much as it has long been, or perhaps more so; but the sense of justification for its ways, such as its military and police powers, rapidly fades. The new official violence is simply the old coercion in trouble. The new protesting violence is simply the old dissent disillusioned. Our protest remains usually justifiable, though particular violences may be neither practical nor desirable. What has changed things for many is the loss of legitimacy, what the orthodox pundits describe as a "crisis of confidence," which is absolutely essential for real change. What lay behind the suasions and sanctities of American life stands harshly revealed. What is truly new, then, is the *consciousness of violence* itself. This can be positive.

Though I know that the knuckle-cracking contractor that evening was not being very rational when he condemned protesting violence as "undemocratic," he was testifying more than he knew to the loss of responsive political process. When protesting and repressive violence breaks through around issues such as the war, draft, ghettos, militaristic domination and arbitrary police powers, it should be evident to all that little democracy exists on those things. Asian peasants, American draftees, and most of those "awful militants" have no democracy to practice, or defend. To point them to "representative" forms ostensibly available elsewhere is irrelevant as well as dishonest.



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Thus if we have to wait until they vote us out of the wars, foreign and domestic, with their feet and fists, there won't be much of a society left. In the meantime, the traumas producing the new consciousness of violence may irregularly continue and become self-justifying. We might even have less violence, though I doubt it. But regardless, the loss of legitimacy seems too drastic and too real to allow us to return to the pre-violent sense of our institutions. Some will therefore argue for more transforming violence, whether in hope for the future or reactive desperation. People who have never been shot at will be all too willing to have someone or other do some shooting for them. Though I would not claim any legitimacy of our social and political order as an adequate defense against this, there is a good simple argument against violence: as a number of recent students, as well as Panthers, have had demonstrated on their bodies, the wrong people usually get it in the back. Since violence, for no matter what ends, is rarely a just and effective social instrument, a reasonable and humane man cannot argue for it.

However, it is much less often noted that we must not condemn such violence as that of protest on the ground that we cannot wisely condone it, any more than we can conclude that we must hate all those whom we cannot love. Though I don't accept the logic and style, and fear some of the implications, of the anxiety over violence in moderate American living rooms, I'm finally forced to share some of the sense of loss and rage, for only fools would claim to know the final results. We may still hope that other ways than violent ones will be found to successfully break domination and re-create American sensibility, and thus achieve the imperative transformation of our social and political orderings. Sadly, however, we cannot just reject violent protest, certainly not in the living rooms of raging moderates. But perhaps we can at least refute the dishonesty about our coercive and illegitimate orderings which the violence, and the rage, is really about. □

# BLACK AND BLUE IN CLEVELAND

**TERENCE SHERIDAN**
*Mr. Sheridan is a free-lance writer, formerly on the staff of the Cleveland* Plain Dealer.

*Cleveland*

Carl B. Stokes of Cleveland, the first black mayor of a major American city, is, according to a recent Harris poll of black men and women, the most highly respected Negro public official in the country. In May, Mr. Stokes received the Horatio Alger award, honoring "heroes who overcame handicaps and poverty to win fame and fortune through hard work," and Oberlin College conferred on him an honorary doctorate of laws. But though honors and awards are heaped on the Mayor with boring regularity, no one thinks of awarding Cleveland anything. That would require Homeric imagination, for Cleveland, the nation's eighth largest city and one-third black, is ripped by racial discord and has become a model of misdirected priorities.

While winning acclaim and making friends outside Cleveland, the Mayor has been driven to the wall here by perverse problems—police animosity, street crime, school and ghetto disorders and suspected malfeasance of mayoral appointees—that even heroic fame and fortune have not been able to solve.

The Mayor's lack of rapport with police, the cause of many City Hall headaches, would alone prematurely age any normally ambitious politician. One of Mayor Stokes's favorite sayings is, "let the chips fall where they may." He said it in February and they fell on his hand-picked police chief of ten days, dapper William P. Ellenburg, a former Detroit policeman who came to Cleveland from Grosse Pointe, Mich., where he had been safety director. Ellenburg resigned on February 4, after declaring his potential effectiveness emasculated by newspaper reports that a Detroit attorney, a former Mafia lawyer, had taken a lie-detector test and accused Ellenburg of accepting mob payoffs for the protection of an abortion mill in Detroit.

Stokes then appointed Lewis W. Coffey to the post and departed for a two-week trip to Europe and Israel, promoting Cleveland as a likely place for foreign investment. Coffey, thirty-two years on the Cleveland force, is the city's fifth police chief in twenty-six months. Elated by the rapid exit of Ellenburg, whom the Mayor had brought in from outside, the police conceded that veteran Coffey was fine with them, since he was one of their own (so had been three other chiefs who resigned after fractious disputes with the Stokes administration).

The Mayor's problems with the police department began the day he took office in 1967. Some policemen single-mindedly resent taking orders from the black-run City Hall. Others say that they soured on Stokes when he pulled police and the National Guard out of black neighborhoods during the July 23, 1968 Glenville gunfight, in which three white policemen and four black men died. During and after the gunfight, police car radios crackled with obscenities, the mildest referring to "that nigger in City Hall."

Stokes ordered police and the National Guard out after announcing that he was putting personal safety before private property. "We'll never forget it," promises Frank Schaefer, president here of the Fraternal Order of Police. "The implication was that we were a pack of mad dogs looking for revenge for slain brothers, which wasn't true."

On March 2, the morning after Schaefer charged on a TV show that the American Civil Liberties Union was harassing police, someone threw a firebomb through his living-room window, doing $200 damage. In December he said on television that the Black Panthers should be "wiped out." He later explained that he meant his statement to include other "un-American" groups, such as the Ku Klux Klan and the Mafia.

Rep. Louis Stokes, the Mayor's brother and a member of a black Congressional committee that investigated the



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police slayings of two Black Panthers in Chicago, called Schaefer's statement "repugnant."

To bridge the rift between City Hall and the police department, the Mayor brought to Cleveland as safety director Lieut. Gen. Benjamin O. Davis, Jr., the nation's first black fighter pilot to receive a Silver Star for heroism. General Davis, the military's highest-ranking Negro when he retired after thirty-seven years of service to take the job here on February 1, serves as a public relations buffer between the sometimes testy Mayor and a rebellion-prone police department. He walked into flak.

"The main priority in Cleveland is in establishing a wholesome relationship among the police in the city, and between the people in the city and the police," he says benignly to visitors, some of whom feel that they are standing at attention while sitting down. But in less guarded moments the safety director is more pungent. "This is the most racially divided city I have ever seen," he told Tom Vail, publisher and editor of *The Plain Dealer*. At the same "off-the-record" meeting Davis said he had instructed the police not to use the epithet, "niggers." "If they feel they have to call a man anything, call him a son of a bitch, but not a nigger."

Davis, who attended high school here (he was president of his senior class at Central High) and recalls Cleveland as being a "nice clean town, full of nice people," succeeds Joe McManamon, a former policeman and close friend of Stokes. McManamon, Stokes's first appointee, resigned after police demanded that he be fired, on the ground that they could establish no rapport with him.

Stokes was elected in 1967 and re-elected last year with the financial backing of businessmen one usually associates with the Republican Party. The first victory came after the harrowing Hough riots. Stokes was then the peacemaker, the one-man symbol of black success; he was unassailable. Newsmen rhapsodized about his public charisma and personal charm. "Cool it for Carl" was the word in the ghetto.

When election time next rolled around, the police, their real and imagined grievances exacerbated by the Glenville gunfight that killed three of their fellows (the police call it an ambush and the black community calls it a rebellion against arrogant cops), turned out to work against Stokes. White policemen, wearing their guns, came in from their suburban homes and precincts to act as "volunteer" challengers—ostensibly on a statewide issue to lower the voting age to 19—in black precincts during the November mayoral election. Black voters called them harassers.

Discord simmered between police and City Hall until March, when Stokes suffered his worst hour in office since the Ellenburg fiasco. A running controversy over police exams came to a head when two of the five members of the Civil Service Commission, a black lawyer and a white carpenter, Stokes's appointees and political allies, pleaded guilty to destroying, on Christmas Eve 1968, 940 answer and identification sheets of a police promotional exam. They were fined $600 each. A police lieutenant indicted for perjury had his case continued after a nine-month investigation into possible bribery in connection with police entrance and promotional exams.

Common Pleas Judge Joseph J. Nahra said that the apparent motive for "any shenanigans" was to sign on more black policemen, and Stokes exploded, publicly and privately. In private, he said that high-ranking white officers who had cheated by getting advance copies of the exam were going to fail. Although the judge acted only on the promotional exam indictments, he was obviously referring to the NAACP-sponsored preparatory school which on October 16 and 18 of 1968 tested black police candidates with the identical entrance exam that was given police applicants on October 19, 1968—a coincidence which the

*Lieut. Gen. Benjamin O. Davis, Jr.*

grand jury, after calling 116 witnesses, sedately termed an "unfortunate occurrence in many ways."

Publicly, the Mayor charged that the judge and County Prosecutor John T. Corrigan, champion of the policemen, were "whitewashing" the scandal. Stokes called the judge's remarks a "slur" on the black community and urged black voters to "remember Judge Nahra from now on"—a pointed reminder that common pleas court judges run for re-election every six years. Prosecutor Corrigan replied that Stokes had appointed "inept, blundering, incompetent" commission members and that the scandal rested on the doorstep of City Hall.

Twisting the knife, the prosecutor also disclosed that George Moscarino, a zealous assistant county prosecutor, had investigated alleged leads that contraband copies of the promotional exam were run off in the offices of the Mayor's former law firm—Stokes, Character, Terry and Perry. Law partner Character stopped the investigation at the firm's front door, telling the prosecutor to get a search warrant.



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Concerned at what they interpreted as a relentless personal feud between two prominent Democrats, Stokes and Corrigan, thirty-five black lawyers met quietly in a downtown motel and authorized a ten-man delegation to meet just as quietly with the Mayor. They came away convinced that the Mayor would pursue the issue, even if it meant tarnishing reputations of black lawyers.

"He said his position was not unalterable, but I don't think we changed his mind," said one of the lawyers. "He wants white cops he thinks are involved. He's under a lot of pressure, the public and all, and the police don't dig him."

The police also don't dig the American Civil Liberties Union of Greater Cleveland, nor the ACLU's 159-page report, "A Showing of Probable Cause," on the Glenville killings. The report, under study by the U.S. Department of Justice, charges that there is probable cause to show "criminal activity" by police during the disorder and that "local officials have failed to investigate where probable cause exists." Corrigan last fall absolved police of any wrongdoing.

The ACLU study includes testimony that black men were beaten, that black women were abusively searched, and that policemen stole and drank liquor. It says that failure to investigate has "triggered a near total demise of hope that in relations between black people and police, the former have rights which prosecuting officers will respect."

The Mayor's buffer, Safety Director Davis, says: "Hell, that's something that happened twenty months ago. I know it involves civil rights, but I've got something happening every day that involves civil rights. I'm trying to make these streets safe. I don't want to get in a hassle with long-haired lawyers. Besides, damn it, I don't have the tools to run an investigation." There are some lawyers who say that he has 2,386 tools—every one of them a policeman.

"I'm too old to be looking for a best reply," sighs the 57-year-old General. "To hell with it!"

As the Mayor travels and the General supervises an uneasy truce with the police department, Clevelanders keep personal score cards on spectacular community controversies, but the continuing priorities, which bear close watching in Cleveland, slip by unnoticed.

An executive of a wrecking company was fined $50 in February for permitting a group of workmen to warm themselves around an open fire near a razed building. He was the first person to be convicted under Cleveland's new air-pollution code. As he was being fined, smokestacks of the steel plants continued to belch pollution, and that infamous fire hazard, the Cuyahoga River, fouled with municipal and industrial wastes, continued to flow nastily into moribund Lake Erie.

Commercial buildings, especially banks, are erected here with great fanfare, but not much has changed in Hough, with its poverty population of 25,084—43 per cent of the ghetto's total. There are roaches in the flour, rats in the bedrooms, and the burned-out buildings, left over from the riots, are boarded up with plywood and bitterness. "There's nothing happening here, and the young, more militant ones feel fenced in, like they got to burn something down to get attention," says Rev. Wilbert Jackson, director of the Hough Neighborhood Opportunity Center, a combined services organization supported by the Office of Economic Opportunity.

An annual priority is the police crackdown on black prostitutes on the East Side. The predictable announcement, attended by titillating front-page coverage, means that the streetwalkers will move off main streets for a few weeks, making it difficult for white customers to find them. Meanwhile, white call girls in Pucci dresses worry about tax problems, not the vice squad.

Shortly after becoming police chief, Coffey announced a police campaign to harass the streetwalkers, and a few weeks later the FBI announced that violent crime in Cleveland—murder, rape, robbery and aggravated assault—had risen 60.4 per cent in 1969, as compared with 1968. The national increase was 11 per cent.

The indignant chief criticized public apathy and called on all citizens to help stamp out crime. Presumably he also meant the five policemen, including a black detective formerly attached to Safety Director McManamon's office, who refused to testify before the grand jury that was investigating the police exams. One of the five, a former chief of the city vice squad, has resigned.

As the safety director's office considered departmental disciplinary action against the reticent officers, the Mayor was forced to disclose yet another "cloud and shadow" over still another promotional exam. On March 12, a day after the test was given and just seven days after the two members of the Civil Service Commission pleaded guilty to destroying copies of a police exam, some eighty policemen routinely visited the commission office to review the test. There were twenty-seven question-answer sheets when they came in, twenty-six when they went out, according to David Sindell, commission president. (The missing copy—useless to the man who took it—would not be cause to invalidate the exam taken the day before. Its theft was considered an unimaginative attempt to embarrass the already embarrassed commission.) "Until this happened I thought we were moving along pretty good," said Davis of his rapport with the police. "But it hurts me when their morale is hurt."

Davis received a respite from the nagging police exam squabbles when racial disorder broke out at Collinwood High School on April 8. The National Guard was called and remained on standby alert until order was restored two days later. The Mayor then resumed his traveling schedule, one day in Washington to attend a meeting of the National League of Cities and two days lecturing at Florida Presbyterian College in St. Petersburg, Fla.; and Davis again turned his attention to shepherding police morale, which may improve with acquisition of new riot-control equipment.

A policeman in position to know said the cops were asking for automatic weapons and armored carriers. "They'll get a command and control vehicle, which is armored, to be used as a command post in the streets during critical situations," said the General. "But other than replacements we aren't, to my knowledge, buying any new automatic weapons. We are in a crisis in this city—in all cities—and we damn well better get down to solving it before it envelops all of us." □



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# KEEPING SHALE UNDER WRAPS

**CHRIS WELLES**
*Mr. Welles is the author of* The Elusive Bonanza, *to be published in September by E. P. Dutton.*

Oil shale is the country's richest undeveloped natural resource, but federal policy on it seems to have the inevitability of a Greek tragedy. Recently the Interior Department, under Walter J. Hickel, has adhered to the oil industry's self-interested viewpoint on disposition of the government's 80 per cent share of the 16,000 square miles of oil shale land in Colorado, Utah and Wyoming. Interior apparently has no intention of opposing the industry's eventual control of shale oil production, which will be just one more step toward its complete monopolization of the nation's entire energy resources.

In the December 23, 1968 issue of *The Nation,* I described the motivations of the major parties interested in shale. The oil industry has always been wary that an outside party might cause a shale oil industry to spring up. Produced in sufficient quantities, shale oil might undercut the tight controls over the country's crude supplies and destroy the rigged, artificially high crude prices, and capture the market. Claiming shale "not competitive" with crude production, the industry has generally been unwilling to take steps toward shale oil production unless its control over the emerging industry were assured. Interior, meanwhile, has been reluctant to formulate policy on oil shale for fear of charges of "giveaway" and "Teapot Dome." This has conveniently served the oil interests, which don't want shale oil produced commercially until it is needed to supplement domestic crude supplies.

However, Interior has been under growing political pressure from Senators and Congressmen from the shale states, many of whom hold high positions on the Congressional Interior committees, to take positive action. Interior Secretary Stewart Udall responded to this political pressure with a series of leasing programs, proposed and actual. He hoped private industry might be attracted, but was careful to protect himself by inserting stiff rules "to protect the public interest." Though each program was considerably less restrictive than its predecessors, the oil industry failed to respond.

In June 1969, six months after Hickel relieved Udall, Colorado Sen. Gordon Allott arranged a meeting in Hickel's office with the Secretary, other Interior officials and local politicians to discuss the department's shale policies. Hickel appointed a task force to make a study. The task force, headed by Reid T. Stone of the U.S. Geological Survey, submitted a proposed "prototype" program in early May of this year, and recommended that twenty-year leases be offered on the basis of competitive bonus bids. (This procedure is similar to the way offshore oil lands are leased: royalties are fixed at the outset, and bidders compete by offering one-time bonuses over and above the royalties.) While somewhat similar to Udall's 1968 program, the new proposal contained two noteworthy differences. Instead of being offered pre-selected tracts of shale land, bidders could "nominate" tracts in which they were interested up to a maximum of 5,120 acres, as specified in the 1920 Mineral Leasing Act. Time periods were stretched out, with offering of six tracts, two in each state, coming two years after the program's start. Commercial production was not expected for at least ten years. Except for an escalation of the minimum royalty after the fifth year, the speed of shale development was left at the discretion of the lessees.

All indications were that Hickel would approve the proposal. Interior alerted newsmen and sent out preliminary press releases. Senators from the shale states made announcements hailing the new policy, and even had photographs of themselves with Interior officials made to accompany news stories. A subcommittee of the Senate Interior Committee scheduled hearings.

At the last minute, however, Hickel recalled the releases and sent a letter to Utah Sen. Frank Moss, chairman of the subcommittee, stating that "Our present evaluations of the costs of production from oil shale land lead us to conclude that it would be premature at this time, for economic reasons, to proceed" with the leasing plan. He suggested that the hearings be postponed.

The Western Senators and others rose up in wrath. They demanded to know, among other things, what relevance a judgment of economic unfeasibility by Interior (contradictory to past Interior evaluations) had for a program involving no expenditures of federal funds and complete assumption of risks by private industry. Moss said he would hold hearings anyway and requested that Hickel appear to explain the department's position.

Hickel declined to testify at the May 21st hearings, but

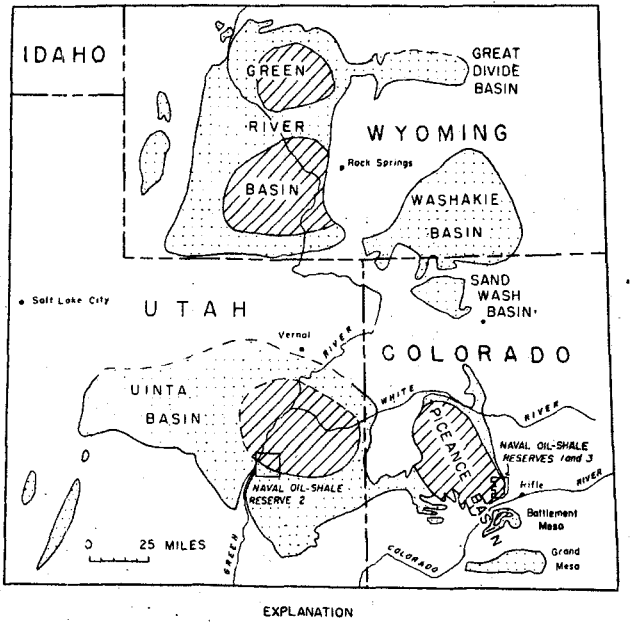


Figure 3.—Distribution of oil shale in the Green River Formation, Colorado, Utah, and Wyoming.

Distribution of oil shale in the Green River Formation, Colorado, Utah and Wyoming



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sent Under Secretary Fred J. Russell and Assistant Secretary for Mineral Resources Hollis M. Dole, who explained that Hickel, in his letter to Moss, had really been trying to say that the task force had not adequately "delineated" the "economic impact" of protecting the environment, preventing pollution and restoring the land, and had not sufficiently consulted with the shale states on these questions. Consequently, they went on, private companies could not be expected to produce definitive enough cost data to allow them to decide whether or not to participate. Dole concluded that "it is obligatory at this time that more definitive information be obtained."

Since the task force had already considered the environmental issues in some detail, Interior's statement satisfied practically nobody. Moss told me that "I just can't believe it. It's just a cover-up." The real reason for the department's reversal was not made clear, but the most persistent explanation was that, in the words of one official, "Hickel found there was just no pressure from oil companies for moving vigorously on shale. What with all their financial problems on the North Slope they're just not interested. So he figured: why should we try and go ahead with this now? Why not wait a while? He only cooked up this environment business when everyone began to scream." Moss said his committee had heard "rumors" that "some of the major oil companies put pressure on the Secretary not to initiate an oil shale development program at this time in view of their great investment in offshore and Alaskan oil." The authoritative *Oil & Gas Journal* lent credence to this view by suggesting that Hickel "was skeptical of industry interest in shale, in view of development opportunities on the North Slope of Alaska." Some oil executives are said to feel that the industry overbid for the North Slope leases and underestimated development and production costs. The estimated cost of the proposed trans-Alaskan pipe line, for instance, has soared from $900 million to $2 billion, and construction has been delayed well into 1971 by court challenges from conservationist groups and general concern over deleterious effects on Alaskan ecology.

Reid Stone's task force is presently acquiring additional environmental cost data, and according to Hollis Dole, accumulation of sufficient information for a revised leasing program might take from three to six months. He told the Moss subcommittee, though, that "My guesses haven't been very good in the past. I've always been six months to a year off."

Whether or not the oil industry will participate in the revised lease offering, the ominous implications of Interior's position on oil shale are clear. The department continues to assume, wrongly, that the major oil companies are the only possible producers of shale oil and that their decisions on shale development will serve the public interest. Its response to political pressure from the shale states is ever greater concessions to elicit a positive response from the oil industry. Domestic petroleum reserves continue to dwindle, despite the North Slope, and eventually, if the oil industry's control over shale oil seems irrevocable, it will probably make bids. Shell, Standard Oil of Indiana and Atlantic Richfield during 1963-64 acquired twenty-year leases on many thousands of acres of state-owned shale land in Utah; rentals are very low (50¢ an acre for the first ten years, then $1 an acre) and there are no production requirements. Atlantic Richfield recently paid $24 million to acquire a major share in the only significant shale research venture, initiated by The Oil Shale Corp.

Though resembling it physically, shale oil is *not* crude oil but a potential competitor of crude oil, just as synthetic fibers are competitors of natural fibers. Shale oil should not be thought of as a mere supplement to crude, to be produced only when it is "needed," but as a potential replacement. For many reasons, shale oil is a superior product. Disinterested estimates show production costs considerably lower than those involved in finding and developing additional domestic crude reserves, and while costs of crude are continually rising, shale costs, with improved technology and economies of scale, are likely to decline. Shale, according to recent studies, may also be an economical source of natural gas, the domestic supplies of which have been shrinking alarmingly. Substantial shale production could eliminate the country's eventual dependence on foreign imports. Unlike most crude, shale oil is very low in pollution-causing sulfur. And shale production would be free from many environmental hazards of crude, such as offshore well ruptures, oceangoing tanker disasters, and the despoilment of wilderness areas such as Alaska and the Arctic. Shale oil production is essentially a mining operation, and the environmental problems are well known and can be dealt with.

But most important, if non-oil interests were encouraged to participate in a shale development program, and the oil industry were barred by a threat of antitrust prosecution, a fresh breeze of competition could be introduced into the country's most stiflingly monopolistic industry. Consumers might realize billions of dollars in savings through lower prices for gasoline, fuel oil and hundreds of other petroleum products. The billions in annual subsidies and tax concessions to the crude oil industry could be cut back sharply, since their purpose is supposed to be assurance of a domestic oil supply. The shale in Colorado alone contains enough oil to meet the country's oil needs until well after all fossil fuels have become obsolete.

If shale oil production becomes just another producing division of the existing petroleum industry, these benefits will be realized, if at all, only at the pleasure of the industry. The free play of competition in energy production has already been severely jeopardized by big oil's sizable interests in natural gas, coal and nuclear power. During hearings on oil shale by the Senate Antitrust Subcommittee, Michigan Sen. Philip A. Hart said that "Monopolization of this enormous asset . . . would be a national tragedy." □

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LIVINGDYING. *By Cid Corman. New Directions. 64 pp. $5. Paper $1.75.*

IN TIME: Poems 1962-1968. *By Joel Oppenheimer. Bobbs-Merrill. 224 pp. $5.95.*

STAR. *By Michael McClure. Grove Press. 124 pp. $4.75. Paper $1.95.*

**ROBERT J. GRIFFIN**
*Mr. Griffin teaches English at California State College at Hayward, and is currently working on anthologies of 20th-century American literature and contemporary poetry.*

Cid Corman is a practiced master of a distinctively modern genre: the skinny poem. A good skinny poem is spare in more than its line lengths (and usually its number of lines—were Poe alive he might explain how a skinny poem of more than, say, thirty lines would be at best a series of related poems). A counter example:

*I*
*Know that*
*You are*
*Not*
*As fond*
*Of me*
*As*
*You*
*Used*
*To be.* (Anon.)

That's visually thin, all right, but the language is flabby—all those explicit connectives, the bland abstraction, easy alliteration, rhyme even. To qualify for the genre, a poem has to look like a skeleton that won its struggle to get out of its fat embodiment. If it says more than it leaves unsaid, it's just corseted corpulence, pathetically trying to play thin. If it suggests no special logic in its thinness, it advertises a way to cheat editors who pay by the line. Here is one of Corman's honest successes:

*We drink*
*to each*
*other*
*mountain*
*flowers*

*One cup*
*leads to*
*others*
*others*

*Mind floats*
*body*
*lies by*

*Go friend*
*Tomorrow*

*Morning*

*And don't*
*forget*

*Your lute.*

The lines of this poem are short and placed as they are for better reasons than a mere predilection for white space. It shows how such simple devices as immediate repetition can be peculiarly telling in a poem so rigorously spare. And it brings to mind another quality shared by many of the better pages in *Livingdying*, an Oriental flavor so strong in some poems that they seem not original works but carefully literal translations. At its worst this flavor may smack of cross-cultural belch, like pseudo-Zen gnomics or Pound pretentiously wagging his pigtail.

*Young strong and willing*
*Sword in hand alone*
*How much ground covered*
*Chang-I to Yu-Chou*
*Drank at the Yi's source*
*Got to no man's land*
*Nothing but old graves*
*Of them two high points*
*Chuang-Chou Po-Ya rest*
*No longer around*
*I have gone far—why.*

Why indeed. But that isn't typical. Corman lives in Japan, really *lives* there, and in most of his short pieces the Eastern note is earned and genuinely resonant. Few of the wholly successful poems of *Livingdying* are far from the realm of haiku. "The Condiment" is a particularly deft example.

*Grass*
*comes over*
*the slope*
*or nearly*

*across*
*the grass*
*the salt of*
*shadows*

*pigeons*
*into the*
*emptying*
*air.*

And there are others ("Willows / pushing buds / I // only / reach to feel / more" and "Of course / life matters. / Twitter // sparrow. / and let me / know it.") that exemplify a common feature of American haiku, making overt the connection between thing seen and man seeing.

Geography aside, Corman also lives in America. He has worked his way to the forefront of our native tradition of skinny poetry, a tradition that includes Frost's "Dust of Snow" as well as Williams' lean classics, the few achieved miniatures of Louis Zukofsky's work, or for that matter, the funning onomatopoeia of Aram Saroyan's "crickets / crickets / crickets / . . . ." When he cares to, Corman can bring off a special blending of haiku-like ellipsis and downright American idiom.

*That there*
*sky*
*the tree*
*shake*
*light*
*yawn*
*bird*
*song*

*What you do*
*to be*
*here*

*What you done*
*years*
*man.*

For the opener of *In Time* Joel Oppenheimer offers his own very special brand of American haiku, called modestly "The Poem":

*they have returned*
*the wrong*
*letter.*

Or consider "Bronxus," a loosened expanded joke version:

*people around here all*
*the time walking their*
*dogs even at seven in*
*the morning Leave it*
*alone don/t walk your dog*
*so much*
*it/ll*
*fall off my sainted*
*mother might have said.*

Nice; perfectly Oppenheimerish in spirit; but not really typical in compass. The gentle concision of haiku, the poignant sparseness of true skinny poems—these are not Oppenheimer's main strength. He is a poet of the city, specifically Fat City, N. Y.; a poet of America as America, wild West and all; a poet of explicit protest and resistance, unabashedly bitching at things gone wrong; perhaps above all a poet of gusto, a witty, free-wheeling celebrator of natural frustration and inadequacy, as well as blessed



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relief or exaltation. Even when Oppenheimer speaks sad truths—

> *. . . we all cop*
> *out, we all run, screaming.*
> *we cannot stand it! we grow*
> *like the onion, head beneath*
> *ground and feet above, and we*
> *rarely learn anything. i was*
> *wrong and there's no use*
> *denying it. and i could not*
> *help you. which is a sin.*

—even his saddest words may sound with the compensatory satisfaction of candid, trenchant acknowledgment.

Oppenheimer loves native myths, embracing the possibilities with all the home-truth romance of a Southern novelist. He writes four poems on *Bonnie and Clyde*, as full a ricochet commentary as anyone (short of Pauline Kael) could be expected to provide. *In Time* boasts over 100 poems, a teeming variety of circumstance and mood: much of loving, but much else besides; more plain talk than the law used to allow. Though not many poems run more than a page, this is a very big book.

Corman aims for an impersonal but outreaching "anonymity" (the term is his own); he writes almost as if he meant to boil all literature down to a few quiet unsigned notes. Oppenheimer is energetically, even rambunctiously, personal and indeed personable, writing as if he were talking straight to a friend in a neighborhood bar. Yet the two poets are similar in their canny self-knowledge. That is, each is plainly aware of his limitations, and wisely content to work within them.

It's hard to imagine that Michael McClure would brook any limitations. His poetry is so alive with letting go, blasting off—all caps, exclamation points, BANG! McClure probably is best known as author of *The Beard*, that controversial fuguelike play (Jean Harlow and Billy the Kid sparring in the blue lobby of eternity) which literally reaches a climax. This isn't a man who tiptoes in with gossamer *aperçus*. I quote from an earlier book, *Hymns to St. Geryon*: "I PICK IT UP BY THE TAIL AND HIT / YOU OVER THE HEAD WITH IT. // WHAP WHAP WHAP WHAP WHAP WHAP WHAP WHAP WHAP / DO YOU BELIEVE ME NOW?" I'm inclined to believe—but McClure is not simply a whapper.

Let me quote from some prose that he wrote at around the same time as the *Hymns:*

> . . . the *Hymns to St. Geryon* are more closely me than the things before. They allow for abstractions, boredom, retractions, contradictions. . . .
>
> My viewpoint is ego-centric. Self-dramatization is part of a means to belief and Spirit. . . .
>
> The prime purpose of my writing is liberation. (Self-liberation first & hopefully that of the reader.) The Bulk and its senses must be freed! A poem is as much of me as an arm. . . .
>
> Falsehoods of logic (there is no logic but sequence!) and proportion must be destroyed. I am huge as a star! I AM A SERAPH!

These few sentences sum up his aesthetic, stating what the poems enact. They remind us that this is a poet of ecstasy: emotion before it cools to a tranquil recollection likely to falsify; yet the whole-life kind of ecstasy that includes thought, reverses, and calms. We are told, too, how the title of the new book signifies ("star" is the word of ecstasy that Jean Harlow keeps repeating at the end of *The Beard*).

If *Star* seems to me the best yet of McClure's books, I think this is largely because of the great range it openly accommodates. Here the "boredom" doesn't bore: the lengthy "Love Lion Book" has its various downs as well as ups, and they are part of its power. The poet has matured without mellowing—"mellow McClure" would be a contradiction in terms. He now manages better than ever a strange conflation of braying self-proclamation and wry self-mockery. He contains his multitudes with authority. If "Poisoned Wheat" now seems a bit overrated (it's so easy to hate the Vietnamese War, and McClure is at his best in difficulty), most of *Star* holds up very well.

Our old friends from *The Beard* are here in "The Sermons of Jean Harlow and the Curses of Billy the Kid." They continue to speak with amazing flair; most amazingly, in rhyme—"And faces drip upon the beams / like torturesques of sagging meat / and silhouettes in crushing streams / break up, and tug and pull the sheet." Taken together the "13 Mad Sonnets" form a crown, a bright consummation of all such poems in McClure's earlier work, and "Love Lion Book" is a no less impressive tour de force.

Visually his poems stand somewhere between ordinary and shaped poetry. In addition to all caps, he favors a great variety of line lengths, and ruled lines across the page (occasionally lines of close-set dashes) that work like white space italicized. The varied expanses of words, ruled lines, and all are usually centered, giving the poem a distinct symmetrical torso ("The poem could easily become a body, / with elbows, lymph systems, muscles"). Though the shapes have no overt pictorial reference, visuality clearly matters—the palpable assurance of method in the madness. See "Mad Sonnet 1" below.

McClure is among the few poets for whom "mad" is an enviable honorific (one thinks of Smart for jubilation, Blake for raging prophecy). Other poets of our time confess, explore or document madness. McClure celebrates it, calls its virtues by name. He is the R. D. Laing of poetry. Yet it needs to be said and said again that McClure is no mere manic screamer, nor simply manic here and depressive there. He has never actually written at fever pitch all the time, and *Star*, "Love Lion Book" especially,

THE PLUMES OF LOVE ARE BLACK! THE PLUMES OF LOVE ARE BLACK!
AND DELICATE! OH!
and shine like moron-eyed plumes of a peacock
with violetshine and yellow on shadowy black.
They SPRAY from the body of the Beloved.
Vanes shaking in air.

---

AND I DO NOT WANT BLACK PLUMES OR AGONY . . . AND I DO
NOT SURRENDER. And I ask for noble combat
to give pure love
as best I can
with opened heart.
Love,
I have not seen you before and you're
more beautiful than a plume!

Stately, striding in Space and warm . . . ( Your
human breasts! )
LET ME MAKE YOUR SMILE AND HEARTSHAPED FACE IMMORTAL

---

YOUR GREY EYES ARE WHAT I FINALLY COME TO WITH MY BROWN!
AND YOUR HIGH CHEEKS, and your hair rough
for a woman's—like a lamb. And the walking virtue
that you are!



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makes clearer than ever before his mastery of modulation.

We've come a long way from Corman to McClure, from deft quiet to virtuoso flamboyance, by way of frank gutsy wit —a journey that just begins to represent the ample diversity of poetry today. A happy journey, to be sure. Yet with all else crumbling, it's almost painful to see how our poetry thrives. □

# Liberty and Justice for Some

JUSTICE: The Crisis of Law, Order, and Freedom in America. *By Richard Harris. E.P. Dutton. 268 pp. $6.95.*

**THOMAS I. EMERSON**

*Mr. Emerson is Lines Professor of Law at Yale Law School. He is the author of* Toward a General Theory of the First Amendment, *and* The System of Freedom of Expression *(both Random House.)*

A major factor in our current national turmoil is the widening conviction among many of our people that the system of justice in America is illegitimate. Various actions of the government, particularly the war and the harassment of black militants, have blotted out for some, and blurred for others, the distinction between official violence and unofficial violence. The failure to realize more fully in practice the theoretical rights extended by the Constitution to all citizens has created a broad distrust of the system. Law in the police station is not the law of the Constitution. Black justice is not the equal of white justice, justice for the poor the same as justice for the affluent.

There has been a growing awareness of the government's unwillingness or inability to enforce the law against established interests, as in the case of anti-pollution laws, or to enforce the law on behalf of minority interests, as in the case of the civil rights laws. The continuing prosecution for violation of obsolete laws no longer supported by reason or the current morality, as in the case of many drug and sex laws, adds to the growing feeling that the existing system of justice does not deserve respect or support.

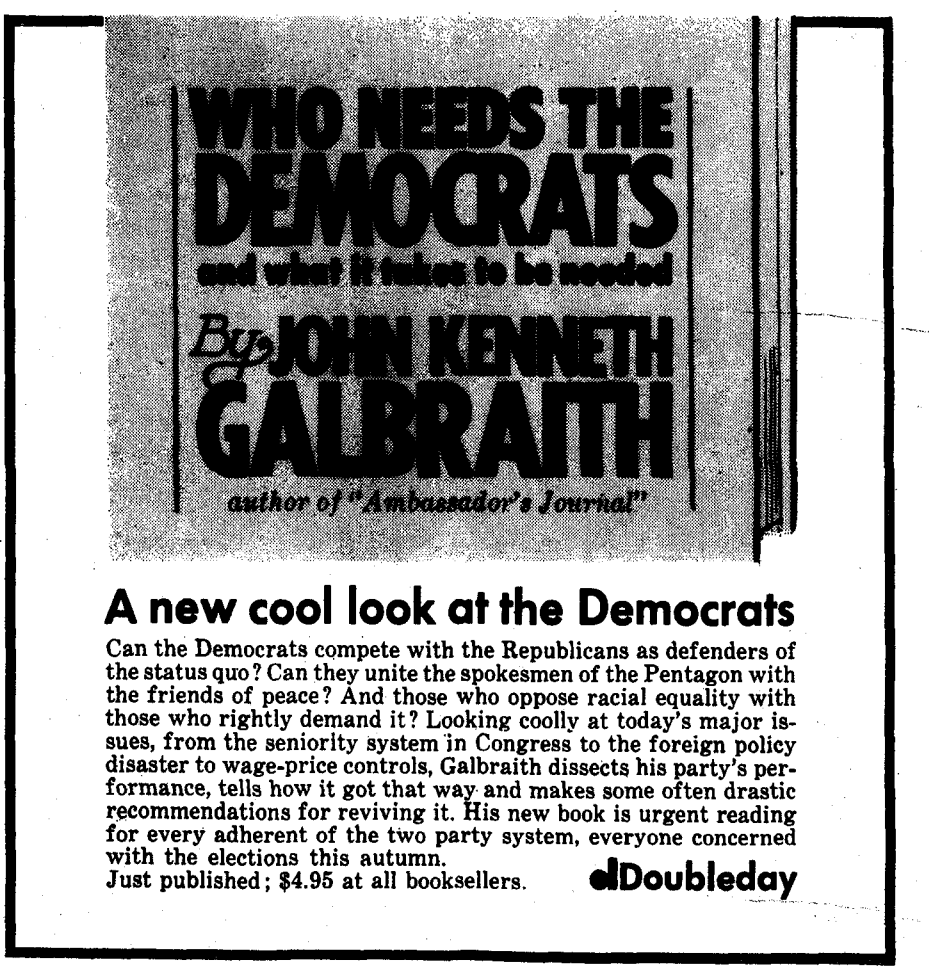
In addition, there has been a dangerous intensification of the gap between the police and the community. The police have become increasingly professionalized, not to say militarized. This has been accompanied by a rapid politicalization: police forces are not only expanding their functions as guardians of the national security (loyalty) but are becoming powerful lobbies in the halls of our legislatures and city councils. Moreover, the attitudes and life styles of many who are seeking change in our society, and the growing militancy of submerged communities where the police have traditionally been the only law, have created unprecedented tensions between the police and the people they are supposed to serve. This isolation of the police from the community and the loss of civilian control over police are ominous signs of future trouble.

The mounting crime rate (at least as publicized in official statistics) plus the growing aggressiveness of radical and reform movements have created not unexpected pressures for heavy-handed enforcement of the criminal law. "Law and order," rather than justice, has become the primary business of the government in power, supported by large and important segments of the population.

Against this background Richard Harris' book, *Justice*, performs a valuable service. Despite his subtitle Mr. Harris does not undertake to delve very deeply into the root issues underlying the present crisis. But he does give us an excellent description of the workings of the Department of Justice, a key component in our system of justice. In doing this Harris develops what may be termed two models—the liberal reform model and the repressive model—through a portrayal of the attitudes and actions of two Attorneys General.

The first Attorney General is Ramsey Clark, who held office from October 1966 to the end of the Johnson administration, and the second is John N. Mitchell, who took over with the Nixon Administration. Harris' account is knowledgeable, perceptive and engrossing. It misses some of the legal subtleties but is essentially accurate in its presentation of events. The author obviously favors Ramsey Clark and the liberal reform model; yet the bias does not amount to distortion and does not substantially detract from the usefulness of the work.

The liberal reform model, as *Justice* depicts it, is first of all a matter of attitude and approach. Thus Harris quotes Ramsey Clark as stressing the need for "keeping a sense of balance in law-en-

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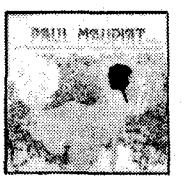

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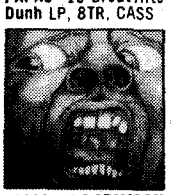

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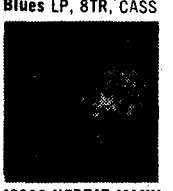

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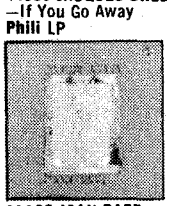

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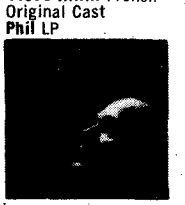

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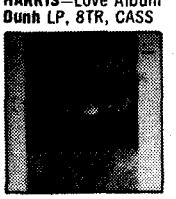

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forcement attitudes toward the very great tensions and anxieties that exist in the country today—tensions in the central city, of racism, of extremist activity, of youth unrest—and maintaining a fair and effective enforcement of the law that is neither repressive nor permissive."

Following this principle, Clark gave generous recognition to the rights of the accused in the criminal process, refused to invoke the broad wire-tap provisions of the Crime Control and Safe Streets Act of 1968, and defended the Supreme Court as "the one branch of government that has moved unfalteringly toward equal justice under law." He made vigorous efforts to enforce federal laws designed to protect and promote minority rights, including the Civil Rights Act of 1964 and the Voting Rights Act of 1965. Acknowledging the right of dissent, he smoothed the way for the Pentagon march of 1967 and the Poor People's settlement of Resurrection City in 1968. He indicted Dr. Spock and the Reverend Coffin for conspiracy to interfere with the draft but refused to move against the demonstrators at the Chicago convention under the Federal Anti-Riot Act.

Clark's concept of the role of the Department of Justice extended beyond the narrow confines of law enforcement. One of his major interests was penal reform and the rehabilitation of prisoners. He recognized the value of the Community Relations Service in facilitating racial adjustments, sought to aid local enforcement officials, and pressed for more funds for the Law Enforcement Assistance Administration. In short, he seriously undertook to make the department into a Benthamite "ministry of justice."

On the whole it is a remarkable record. Harris' enthusiasm is largely justified. Ramsey Clark may easily have been the best Attorney General of modern times.

John N. Mitchell, committed to the repressive model, runs a different operation at the Department of Justice. The remark that Harris cites of a top Nixon planner during the 1968 election campaign sets the tone. Referring to filling the post of attorney general, he said: "We'll get a tough cop and tell him to go to work." Mitchell himself summed it up when he told a reporter that, unlike Clark, he believed the Department of Justice was "an institution for law enforcement, not social improvement."

Under Mitchell the Department of Justice set out to cut defendants' rights to the bone, even below the level guaranteed by the Supreme Court. It expanded its wire-tapping activities beyond the point sanctioned by statute, claiming the right to wire-tap any time there was reason to believe that the subject of the tap intended to "attack and subvert the government by unlawful means." It sought legislation to permit preventive detention, no-knock searches and stiffer penalties. Six weeks after he took office Mitchell announced that he intended to prosecute "hard-line militants" who stirred up campus disorders, and his Deputy Attorney General Kleindienst promised to go after "radical, revolutionary, anarchistic kids." At the same time Mitchell and the Department of Justice slowed down enforcement of desegregation in Southern schools and sought to cripple the Voting Rights Act when it came up for renewal.

Harris, who documents the Mitchell position in detail, attributes it mainly to partisan political considerations. He points out that the Nixon campaign "was largely aimed at cashing in on the white man's fear of the black man"; and he notes that this strategy is designed to form a new political alliance to capture a majority of the House and Senate in the elections of 1970 and 1972. But there is no reason to confine Mitchell's position within the bounds of partisan politics. The Mitchell model constitutes one basic approach engrained in conservative American thinking. It seeks to use the system of criminal justice to hold the *status quo* together by official force, and to put down all those who give signs of causing trouble.

It would seem clear that the repressive model can only lead to disaster in the troublesome times that confront us. The forces that have arisen across the country are not likely either to be held in check or to be channeled into constructive solutions through reliance upon "law and order" alone, much less "law and order" as now practiced. The outcome of any such attempt is bound to become more and more repressive, and ultimately to end in a police state.

Harris appears to believe that the liberal reform model may provide the answer to current problems in the administration of justice. He is not unaware of the broader issues, but his attention and emphasis are on the traditional problems. Thus Harris remarks: "Every Attorney General in recent years has done his best to get more money from Congress to fight crime, for it had become unavoidably clear to each of them that there was no great secret in dealing with crime; the answer was simple—more funds to upgrade police departments, expand and speed up the work of courts, and improve corrections systems so that they rehabilitated prisoners instead of making them into worse criminals."

One may well doubt, however, whether the liberal reform model is any longer adequate to meet the present needs of the system of justice in America. The problems appear more far-reaching and intractable. The current crisis seems to demand a more fundamental rewriting of many of the traditional rules. Unless the outsider groups now demanding admission are accepted into the society, permitted to shape its decisions, and allowed to share its rewards, the American system of justice cannot be made to work. There are immense difficulties and great risks in pursuing a new course. But the alternative would seem to be the repressive model carried to its logical conclusion.

# DANCE

## NANCY GOLDNER

If there exists a historian who is not in love with history, his talents are needed by American Ballet Theatre. Since its founding thirty years ago, this company has produced ballets by almost every American choreographer, in which almost every important American dancer has appeared. A history of American Ballet Theatre is virtually a history of American ballet, with only one major omission, Balanchine, who is represented by only one work, *Theme and Variations*.

The company has used European choreographers and dancers, but its identity has come from singularly American productions: Antony Tudor's *Pillar of Fire*, Agnes de Mille's *Rodeo* and *Fall River Legend*, Eugene Loring's *Billy the Kid*, and Jerome Robbins' *Fancy Free*. It is odd how synonymous these choreographers are with ABT, for in fact each choreographer created actually very few ballets for the company and, with the exception of Robbins (*Les Noces*), none of them has done anything of note for the company during the last twenty years. Think of American Ballet Theatre in 1970, and you can't help but conjure up a company that existed in 1950.

History will not let the company alone; it also turns out that American Ballet Theatre will not let history alone. During the company's thirtieth birthday celebration (June 16-July 12) at the New York State Theater, Lincoln Center, it presented eight new productions, but only two are really new. The other six are



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revivals. Two are by José Limón, whose contribution to dance took place decades ago and who is now a shadow of his past. The prime interest here is first to observe that a ballet company is doing modern dance, and second to watch the two different species mate. Other revivals are Léonide Massine's *Gaîté Parisienne*, Fokine's *Petrouchka*, and finally two of ABT's own: Tudor's *Jardin aux Lilas* and de Mille's *Fall River Legend*.

Apparently caught up in the pages of history and memory, and perhaps in the solemnity of a round-figured anniversary, ABT management has chosen to dredge up the past. Some of the ballets merit revival, but the fact that, of the four revivals seen so far, two are absolute clinkers (the Massine and de Mille works) reveals that ABT is an undiscriminating historian. De Mille is "important." She brought dance to a large public in *Oklahoma!*, used American themes in ballets when many thought that ballet was about sylphs, and has written clearly and sometimes eloquently about dancing.

American Ballet Theatre blazed trails when it first did *Fall River Legend*, but now the ballet will have the company in shackles, until someone decides to glorify quality instead of landmarks. *Fall River Legend* is a case study about Lizzie Borden. In de Mille's interpretation, young Lizzie loves her mother, but so does her father. When the mother dies, the girl wants the father, but he for some reason does not like her and, what's worse, takes up with a cruel stepmother. Lizzie is bored, then tormented. The pastor and church are no help. The only way out is the ax resting on a woodpile in a corner of the stage.

The psychology is not only apparent but transparent, which seems to be inevitable in a ballet when the choreographer is more interested in mental things than in dancing. Emotion, atmosphere, personal relationships can be at the very heart of dance (of Martha Graham's dance, for example), but not blow-by-blow psychology. All the "emotional" things that Lizzie does look pasted on, acted out, but not danced. Unless a choreographer can find a movement suggestive (not equivalent) of a feeling—for this, the movement must be representational or metaphorical, but also personal and specific—the choreography will appear imitative, almost like a child's rendition by cliché of adults' behavior and vice versa. Even though Sallie Wilson gave a sensitive portrayal of Lizzie, this thoroughly under-choreographed ballet that is nonetheless top-heavy with significance is boring and pompous. When watching it, it is hard to resist humming the ditty that goes something like, "Lizzie Borden took an ax, and gave her father forty whacks. . . ."

In turning to *Gaîté Parisienne*, American Ballet Theatre applied rose-colored glasses to the outside world. This is even less excusable than the mistaken revival of *Fall River Legend*, since it is far easier to misjudge one's own past. (Perhaps the City Center Joffrey Ballet is more successful with revivals because it starts with a clean slate.) Management must have been recalling the warm and stylistically perfect performances of the original cast: Massine himself as the Peruvian traveling-salesman type, who always has a deal going, amorous or otherwise; Frederick Franklin as the noble Baron; and Alexandra Danilova as the beautiful glove seller. In the ABT revival, Michael Smuin as the Peruvian bordered on the vulgar, indulging in buffoonery instead of comedy. Ivan Nagy as the Baron lacked nobility, while Cynthia Gregory was too upper class to be a vendor, although it's always sheer pleasure to watch her dance.

But casting is not the only problem. Paris is no longer gay Paree, and its associations—the can-can, mustached waiters who click their heels and snap their serving napkins—are stale. The choreography is also inane, and I suspect that even the original cast could not rescue it today. We grow impatient with Massine's diversionary tactics, such as mobs of people and costumes, mock fights, marching soldiers, a three-minute preparation for one turn in the air or one arabesque. As in *Fall River Legend*, dancing slips into *Gaîté Parisienne* like an uninvited guest.

*Jardin aux Lilas* and *Petrouchka*, on the other hand, are excellent choices for revival, but they are at present flawed by performance. ABT's *Petrouchka* is a beautiful spectacle of color, and the corps has been well coached in Russian manner and mannerisms. The girls, especially Sallie Wilson, bow modestly, pooh-pooh the men gently as they admire the women in their brusque, Russian way, and tilt their heads sideways with their arms stretched in front of them as though embracing the air, which is so reminiscent of the Russian folk-dance style. Yet the fable needs a more potent title character than Ted Kivitt delivers. Like the Petrouchkas of the Joffrey Ballet, Kivitt is a sad sack, not heroic. In the Joffrey production (first given last spring), the Blackamoor was played for laughs, so that Petrouchka's virtue has nothing substantial to bounce off against. But Bruce Marks's Blackamoor is so loathsome and appropriately stupid


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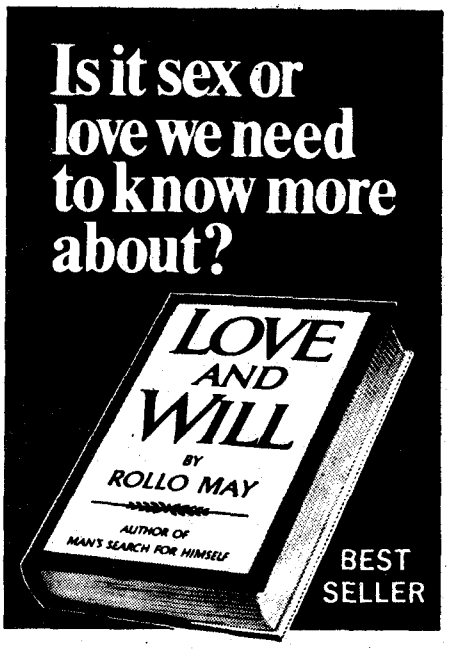
that he only serves to emphasize Kivitt's gutless and unpoetic portrayal.

By virtue of its story, *Jardin aux Lilas* should always work; it is one of Tudor's best ballets. Caroline is giving a party in a dreamy lilac garden in celebration of her forthcoming wedding. At the party are her fiancé (called The Man She Must Marry), her fiancé's former but still interested mistress, and Caroline's lover. Amid the bustle of the party, Caroline and her lover, the fiancé and his ex-mistress exchange fleeting embraces and glances. Words and feelings must hang in midair because there is no time; besides, decorum must be maintained. The tempo of the ballet, like the situation, is fast, almost breathless, and the several tableaux of the four people looking at the person he or she cannot marry are only momentary crystallizations.

At the performance I saw, the dancers (Carla Fracci, Caroline; Gayle Young, her fiancé; Mimi Paul, his mistress; John Prinz, Caroline's lover) did not let the situation speak for itself, but imposed themselves onto a delicate fabric. Their glances were too piercing, their meetings too secretive, too cloak-and-dagger. All they need do is ride the crest of the wave and trust the choreography to tell the tale. By dramatizing their intrinsically dramatic roles—especially Fracci with her frown and penchant for the grand gesture—they actually impeded the ballet's carefully calculated momentum and made a sob story out of what is a classic romantic tragedy. □

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# FILMS

## BEVERLY GROSS

For a long while it looks as though the most notable gain that has been made in the film translation of *Catch-22* is in raising the issue of air pollution. In the opening scene, a formation of fighter planes on a bombing mission shimmer in their own cloudy fumes. A few scenes later, as a plane takes off, a flock of terrified birds fly out of the exhaust. Orson Welles, whose lordly presence is so obviously a Guest Appearance, adds to the effect by almost disappearing, during a briefing session, behind the smoke of his cigar.

One is conscious of this sort of thing because in general the film version of Joseph Heller's novel has disappointingly little to provide of its own. It is not a matter of fidelity so much as of servitude. Everyone involved seems awestruck by the momentous responsibility of making a movie worthy of the most acclaimed American novel of these times (there must have been 200 books in the last ten years billed as "the funniest since *Catch-22*" across their dust jackets).

It is not surprising that the film should suffer so woefully from self-consciousness, except that one expects something smoother from Mike Nichols. The assembled all-stars either shout their lines with desperate giddiness (Jack Gilford's Doc Daneeka; Martin Balsam's Colonel Cathcart; Paula Prentiss' Nurse Duckett) or mumble in low-key self-deprecation (Art Garfunkel's Lieutenant Nately; Anthony Perkins' Chaplain Tappman). A good deal of hysteria comes across, not only the hysteria that should be there but the hysteria of the actors themselves, who seem unable to shake off their nervous excitement at participating in so long-awaited an event as this movie. The jagged alternation between bluster and timidity makes *Catch-22* seem almost undirected. My best guess why is that Nichols, so comfortable with the comedy of manner and mores, a poised and realistic kind of comedy, was at something of a loss in directing effects toward the surrealistic and jugular.

The film is little more than a succession of comic moments. It does not achieve the accelerating absurdity upon which the novel depended. Part of the problem may be the form devised: there is no quickening of pace or mounting of outrageousness; and an odd use of recurrent flashbacks makes for circularity rather than a cumulative plunge into chaos. Alan Arkin's Yossarian is another factor. More genial, more sensitive, more everyday than Heller's hero, he is much tamer in the film, the passive recipient of everyone else's madness, not the perpetrator of his own. At the end, he has to be *convinced* to run away to Sweden, assured that he won't be letting down the other men—a telling sign of his diminution into a regular, all-right guy.

Heller's free-wheeling plot, of course, and his array of quirky characters have had to be substantially curtailed. One thing, however, is not notably sacrificed at all, and looms much larger in the film than in the novel. Buck Henry's screenplay has made its most devastating hit in its emphasis on the doings of Milo Minderbinder (Jon Voight), founder of the M & M syndicate. A travesty of the war profiteer, Milo uses air force planes for his international trading. He parlays the silk parachutes of his fellow fighting men into a huge commodity exchange covering the entire Mediterranean, wheeling and dealing in eggs, plum tomatoes, Cracker Jacks, Grecian statuary, Roman brothels.

In Heller's novel there are two self-made power lords, Milo Minderbinder and Pfc. Wintergreen, who is in some uncanny way the real ruler of the base by virtue of his imputed connection to some Congressman back home. Wintergreen isn't in the film at all and Milo's ascendancy is that much more pronounced—a reflection possibly on current consciousness of the limits of political authority and the seemingly illimitable power of the military-industrial



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nexus, for which Milo's syndicate is certainly a crude metaphor.

Stuck with five warehouses full of Egyptian cotton when there is a sudden glut on the market, Milo arranges to let German planes bomb the base in return for the favor of buying up his surplus. Lieutenant Nately is killed during the attack. "Nately was the victim of certain economic pressures—" Milo tells Yossarian, "supply and demand." In the most stinging dialogue of the film, Yossarian feebly protests about the indecency involved. Milo argues that Nately died rich, the owner of sixty shares of the prospering syndicate. But he's dead. No matter, his shares will go to his parents. But they're rich. Exuding an air of triumphant imperturbability, Jon Voight smiles slightly, "Then they'll understand."

It is a rare moment in the film—when the talents of Joseph Heller and Mike Nichols come together.

TO FRAN

*When at last*
*you bend*
*as a sapling,*

*and Lucina*
*takes your thighs*
*in her hands,*

*I will be*
*a sea horse*
*for pain of*
*you*

Paul Costello

# ART

## LAWRENCE ALLOWAY

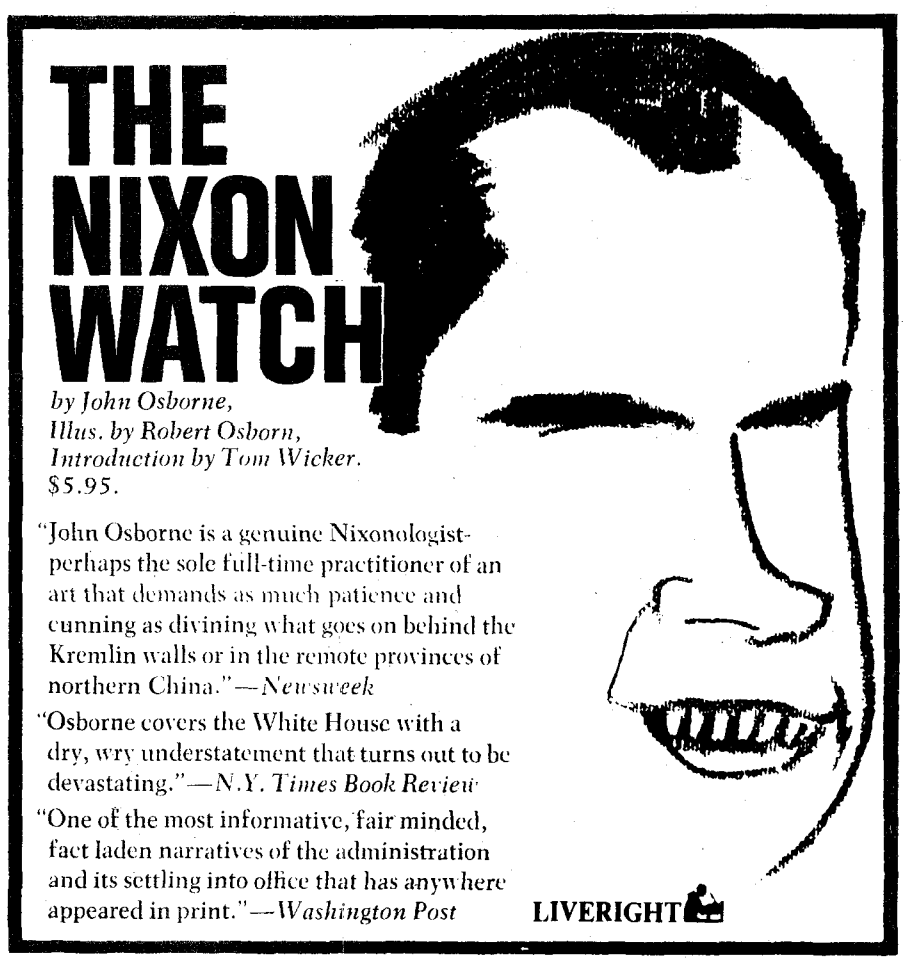
Two New York institutions have put on substantially the same show this summer. Such competitive overlaps are common and usually resolved in the planning stage, but not this time. The New York Cultural Center, 2 Columbus Circle, opened first with "Conceptual Art and Conceptual Aspects" (through August 25) and the Museum of Modern Art followed with "Information" (through September 20). The common subject is documentary and propositional art: American and English, mostly, at Columbus Circle (Huntington Hartford's old place) and international at the Modern.

There used to be an argument that you could only experience art as art in front of originals and that reproductions were not only misleading but corrupting. Harold Rosenberg, defending the autographic properties of Abstract Expressionism, has argued this position. However, as Norbert Wiener more accurately observed, "cultivated taste may be built up by a man who has never seen an original of a great work." From this he concluded that "the greater part of the aesthetic appeal of an artistic creation is transmitted in competent reproductions." A work of art contains both unique and transmissible properties, and efforts to restrict art's value solely to uniqueness is obviously too simple. In fact, a great deal of art appreciation, and of research, rests on photographs and reproductions of photographs. Now the forms of documentation itself are being used by artists as the sole source of information about art and ideas of art.

This stress on documentation has its art historical logic. The Abstract Expressionists, one at a time, a piece at a time, went on record verbally about their work. The Pop artists were mute at first but within a few years had answered a lot of interviewers' questions, and Minimal art arrived simultaneously with its commentary. The kind of art at the Modern and the Cultural Center is often wholly verbal or, if visual, photographic and diagrammatic. The artists, therefore, are working *from the beginning* with the mechanical techniques and codes that distribute *subsequently* information about original objects. If art is money, conceptual art is like a credit card, at one more remove from the direct exchange of gold.

The problem of displaying masses of page-sized paper work, which is what much of the documentation consists of, is obvious. At the Cultural Center one has to trudge about to read the separated sheets, fixed on the wall, or Xeroxed pamphlets and typeset books (and the publications are, operationally, the originals). It is an inefficient way to get information which is better received in a reading posture. The Cultural Center's display, by failing to translate the act of reading into a spatial ambiance, is very shabby in effect. On the other hand, the temptation to compensate for the lack of impact of documents by fancy lighting and photographic blow-ups is resisted. By comparison the installation at the Modern Museum has just the right emphases, low-keyed but consistently legible, marred only by one splurge into blown-up earthworks in a dim room and one gross machine.

Henry Flynt, in an article of 1961 (copyrighted at the time so there is no doubt about the date) defined the basic position: "Concept art is a kind of art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LIVERIGHT




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of which the material is language." Thus, parallel to the solidification of language into ideographic, non-narrative form represented by concrete poetry, a form of art developed which, without becoming literature, recorded art done or proposed art to do. Flynt even anticipated the question of why it is, after all, still art. "The answer is that the antecedents of concept art are commonly regarded as artistic, aesthetic activities." Ten years later it is still a speculative, notational art, as much geared to aesthetic propositions as ever. At both places, but more at the Modern, there is a wide play with language, cartography, and other codes, as the forms of mass communication are annexed for personal use.

One of the distinguishing factors of these artists is their self-awareness of the communications system within which they, and we, live. This has taken various forms, such as pro-technology collages, the replacement of solid objects by systems of interaction, art by telephone, and photographs used like sketches in a notebook. In the background since at least 1950 (when Norbert Wiener's *The Human Use of Human Beings* was published) is Information Theory, in which information is defined separately from semantics or content, in terms of pattern or energy. To artists this sanctioned the extension of aesthetics to include all kinds of situations and communication systems. Art could be anything, without being a Dada revival. Popularized Information Theory, in literary not mathematical form, defined the world, including art, as a network of available messages (a message being a form of pattern or organization). The effects of this nonhierarchic overview could be seen by 1960 in the work of numerous artists, writers, composers and film makers.

Both Kynaston McShine, who organized "Information," and Donald Karshan, responsible for the other show, suggest that this art will flourish in the seventies. McShine also points out that Conceptual art is probably "the strongest 'style' or international movement of the last three years." True, but it was present, though as a secondary theme, throughout the sixties, and some of this earlier work is still neglected. Thus these exhibitions are, in terms of the sampling of current trends, not especially prompt and, in fact, follow prior European museum shows. They are more likely to be the climax of the movement and hence a signal for something else.

I know that for the last two years I have encouraged my undergraduate students toward undertaking Conceptual art projects of their own, but decided last spring to call a stop. It has become too easy: the projects are often merely an extension of home hobbies, high school play, street games, parties or commuter schedules. Of course, this is not a criticism of the art but merely an indication of the extent to which it has now been diffused (and de-fused?). Individuals who stand out, for their purposeful and learnable information patterns, are, at the Modern, Vito Acconci, Joseph Beuys, George Brecht, Walter de Maria, Richard Long, Robert Smithson and, to be seen at both exhibits, Douglas Huebler, Dennis Oppenheim and Bernar Venet.

The bibliography of "Information," given the verbal character of this art, is merely an amorphous listing of unsorted and (I should guess) largely unread items. Norbert Wiener is not there and neither is Max Bense, whose work on information theory and aesthetics has priority to that of Abraham Moles, who is listed. William M. Ivin's *Prints and Visual Communication*, which is about the technology and distribution of multiple originals, is missing. On the other hand, a special number of the *Scientific American* on "the ocean" is cited and so are Baudelaire, Lévi-Strauss, and Marshall McLuhan. *An Anthology*, edited by La Monte Young and Jackson Mac Low in 1961, which contains the Flynt article quoted above, is not given. The trouble with the bibliography is that it is sophisticated but not educated.

The catalogue of "Conceptual Art and Conceptual Aspects" has a scatter of quotations from the artists (such as "a reproduction in a top art magazine is worth two one-man shows") and traditional career entries for each artist listing one-man shows, groups, etc., but the weight of it is in the section called "Information 1" where the most pedagogical artists have plenty of space. As Abstract Expressionism had its truck drivers, Conceptual art has its clerks. □


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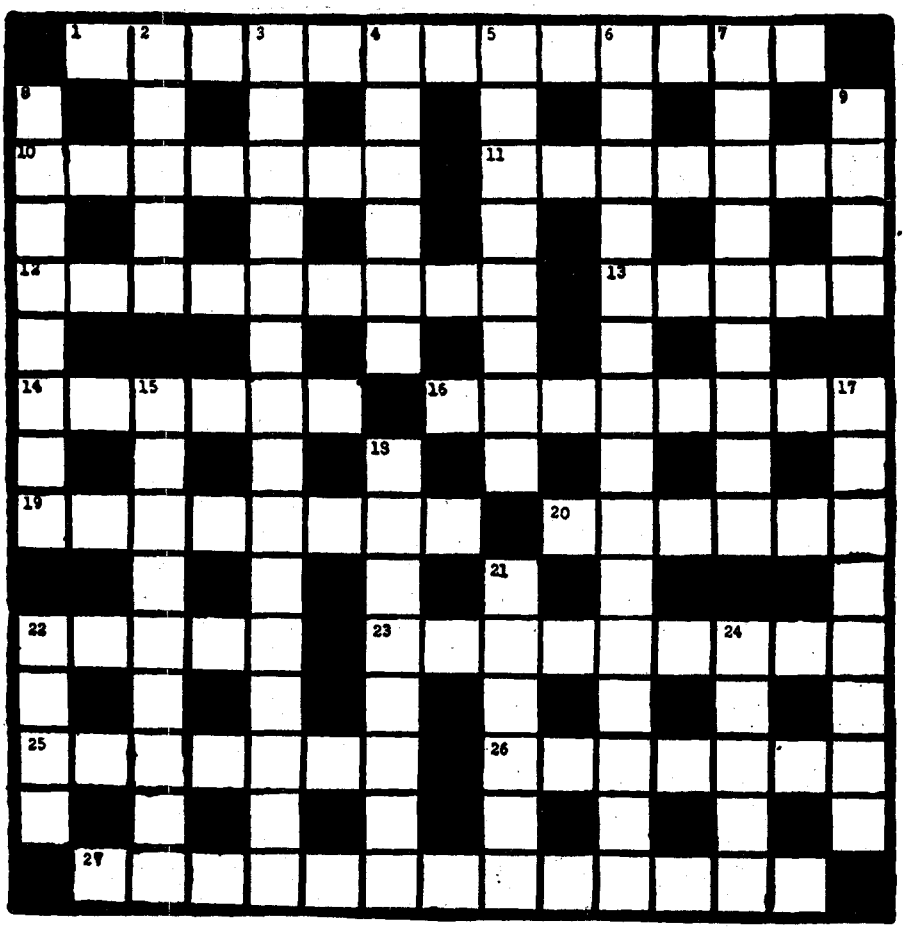
# Crossword Puzzle No. 1354

**FRANK W. LEWIS**



ACROSS

1 Where anyone might walk on water? (9,4)
10 and 16. What navigation amounts to, naturally. (1,6,2,6)
11 Making exercise acceptable? (7)
12 Does it imply one might get a belt after fighting? (5,4)
13 The west might sound all that is left, if one does. (5)
14 It might involve more shooting. (6)
16 See 10 across
19 A possibly poor term for one who might arrange a 12. (8)
20 Shoots from cover. (6)
22 Doesn't wear out such forms of shoes?
23 What did TVA do to have such a startling effect? (9)
25 One might be given here at this time. (7)
26 They're more likely to grow larger in the winter months. (7)
27 Reputedly not a good holder, making the tub green, first. (13)

DOWN

2 It might be a British joint, to make a severe criticism. (5)
3 When a member of the younger generation objects to such a remark, he should know better! (6,5,4)
4 Hurried up to argue the breadth of mind of some reactionaries. (6)
5 You probably wouldn't, with an anchor, go to sleep. (5,3)
6 Daily alternative for the track-follower? (6,2,7)
7 Exercises at the bar with the up-coming role of one that keeps the lid from blowing off. (9)
8 With the ingredients of the cake having risen, it at least implies a game start. (6,2)
9 A gesture, with no true form, improves with time. (4)
15 Splicing kit? (9)
17 One evidently cannot write like one without trying. (8)
18 One might go from side to side. (8)
21 Formed not for the head of 26, but Florence's family. (6)
22 Parts of the race can't be seen if people are standing. (4)
24 One might pass on the motion, if not so occupied. (5)

SOLUTION TO PUZZLE NO. 1353

ACROSS: 1 Antiphlogistic; 8 Look out below; 10 Noble birth; 11 Knot; 13 Dressy; 14 Kohinoor; 16 Yearning; 17 Torn up; 19 When; 20 Comic opera; 22 Reassessment; 23 Dumb as an oyster. DOWN: 1 All in a day's work; 2 Trouble-maker; 3 Processing; 4 Lithia; 5 Great Dog; 6 and 9 Spot announcement; 7 Mustard plaster; 12 Rigorously; 15 Endorses; 18 Pigeon; 21 Herb.

Readers are invited to send for a free copy of Mr. Lewis' "ground rules." Address Puzzle Department, *The Nation*, 333 Sixth Avenue, New York, N. Y. 10014.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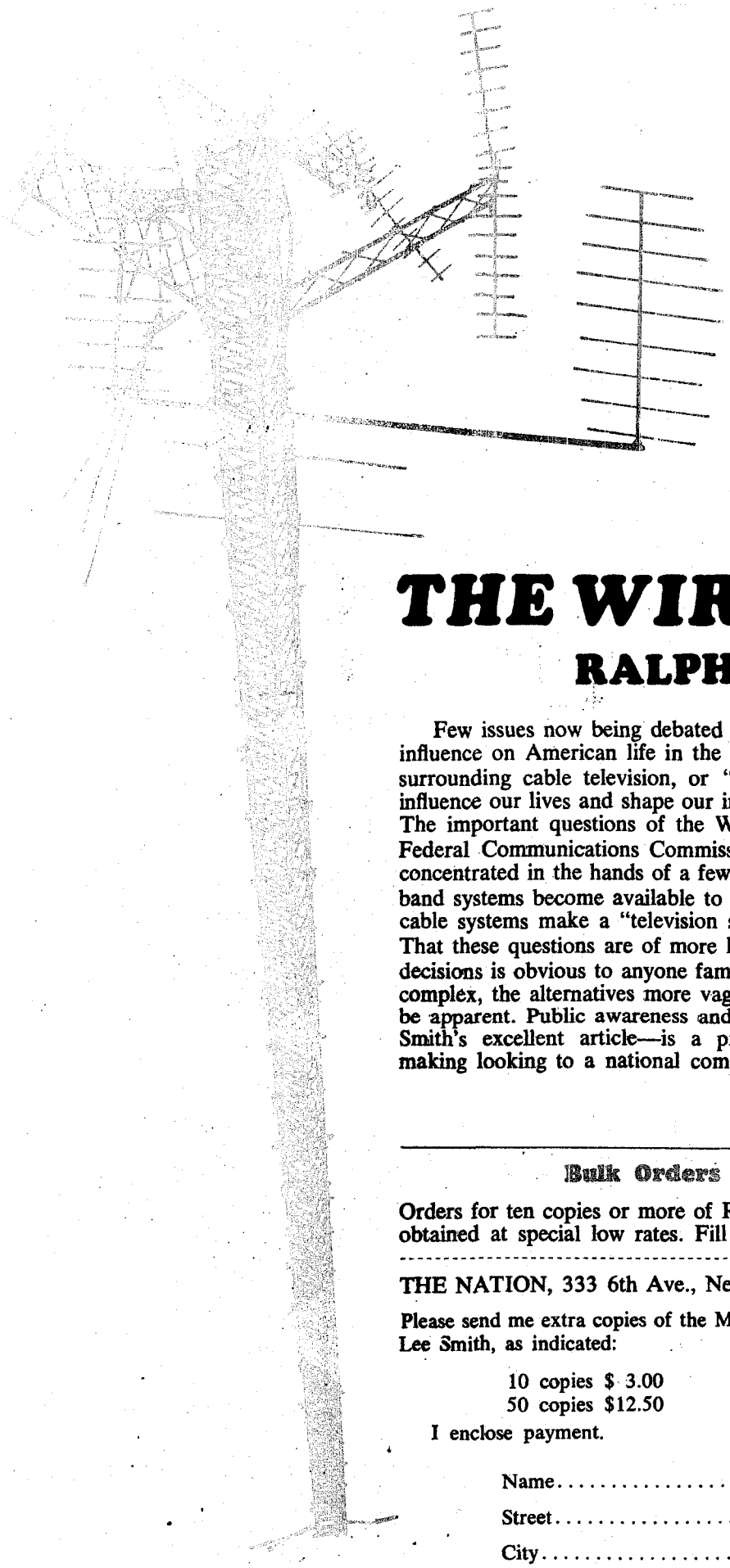

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